





Galvanised Steel Coil from China

Essential Facts and Conclusions Report

Dumping and Countervailing Duties Act 1988

Non-confidential Version

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Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
ABC	Agricultural Bank of China
AD	Anti-Dumping
ADBC	Agriculture Development Bank of China
ADRP	Australian Anti-Dumping Review Panel
Anti-Dumping Agreement (the)	WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
Australian ADC	Australian Anti-Dumping Commission
BlueScope	BlueScope Steel Limited
BoC	Bank of China
CAS	Chinese Accounting Standards
CBRC	China Banking Regulatory Commission
CCB	China Construction Bank
CCOIC	China Chamber of International Commerce
CDB	China Development Bank
Chief Executive (the)	Chief Executive of the Ministry of Business, Innovation and Employment
China	People's Republic of China
CMC	Commercial Metals (an exporter)
CPC	Communist Party of China
CRC	Cold-rolled coil
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Tax
EC	European Commission
EU	European Union
FIE	Foreign-invested enterprise
FIS	Free in Store

FY	Financial year
GOC	Government of China
HRC	Hot-rolled coil
HS	International Convention on the Harmonized Commodity Description and Coding System, also Harmonised System
ICBC	Industrial and Commercial Bank of China
IFRS	International Financial Reporting Standards
LIBOR	London Interbank Offering rate
MBIE	Ministry of Business, Innovation and Employment, the
MCL	Metal coating line
MOLAR	Ministry of Land Resources Catalogue of Allocation of Land
NZ	New Zealand
NZD	New Zealand dollar
NDRC	National Development and Reform Commission
NZ Steel	New Zealand Steel Limited
OTR	Off-the-Road Tires
PBOC	People's Bank of China
RMB	Renminbi
ROIC	Return on invested capital
SASAC	State-Owned Assets Supervision and Administration Commission
SGCC	State Grid Corporation of China
SIE	State-invested enterprise
SOCB	State-owned commercial bank
SOE	State-owned enterprise
US	United States
US DOC	United States Department of Commerce
USD	United States dollar
Subsidies Agreement, the	The WTO Agreement on Subsidies and Countervailing Measures (also the SCM Agreement)

VAT	Value-added tax
VFD	Value for Duty
WTO	World Trade Organisation
WTO Agreement	The Agreement establishing the World Trade Organisation adopted at Marrakesh on 15 April 1994
YPC	Yieh Phui (China) Technomaterial Company Limited (a manufacturer)

Confidentiality of Information

In a number of instances, information in this report, including figures in the tables, is considered confidential because the release of this information would be of significant competitive advantage to a competitor or its release would otherwise have a significant adverse impact on a party.

In these instances the information been redacted or where possible has been summarised in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. For example, in tables the actual figures have been replaced by figures showing percentage changes from the previous period. Shading has been used to show where this occurs.

For the charts, confidentiality is maintained by deleting the relevant axis values.

Where it has not been possible to show summaries in this manner, the information has not been susceptible of summary because to do so would unnecessarily expose the provider of the information to commercial risk.

EXECUTIVE SUMMARY

Introduction

The Ministry of Business, Innovation and Employment (MBIE) initiated an investigation under the Dumping and Countervailing Duties Act 1988 (the Act) into galvanised steel coil from the People's Republic of China (China) on 19 December 2016, following the receipt of an application for a subsidy investigation from New Zealand Steel Limited (NZ Steel). The applicant claimed that galvanised steel coil from China is being subsidised and that subsidised imports are causing material injury to NZ Steel.

This Essential Facts and Conclusions Report is issued under section 10A of the Act. Section 10A requires MBIE to provide the parties to the investigation written advice of the essential facts and conclusions that will likely form the basis for any final determination to be made under section 13 of the Act. The final date for the written advice, which is provided through this Essential Facts and Conclusions Report, is 9 June 2017.

Goods Subject to the Investigation

The goods which are the subject of the investigation (the subject goods) are:

Galvanised steel coil with a thickness equal to or greater than 0.3mm and less than or equal to 1.9mm and a width greater than 600mm but not greater than 1260mm, with a hot dipped galvanised (zinc) coating.

NZ Steel is the sole producer of galvanised steel coil in New Zealand, and constitutes the domestic industry for the purposes of the investigation.

MBIE has completed a like goods analysis, attached at Annex One. In that analysis, MBIE concludes that the subject goods description should be redefined to include an upper width limit of 1250mm.

Proceedings

Following the initiation of the investigation MBIE requested information from identified importers, intermediary exporters, Chinese manufacturers, and the Government of China (GOC). One importer declined to provide information. Responses were provided by several of the intermediary exporters, but only one Chinese manufacturer responded to the questionnaire. The GOC claimed that it was able to provide only general responses because any specific assistance received by Chinese producers of galvanised steel coil is not known by the GOC due to the lack of cooperation with the investigation by such producers. MBIE sent supplementary questionnaires to the GOC, which responded, and to two manufacturers, which did not respond.

NZ Steel requested that provisional measures be imposed on the allegedly subsidised imports during the remaining period of the investigation. On 10 May 2017 the Minister of Commerce and Consumer Affairs decided that she was not satisfied that the imposition of provisional measures was necessary to prevent material injury being caused by subsidised imports during the remaining period of investigation.

Subsidisation

The basis for determining the existence and amount of any subsidisation is governed by the provisions of the Act and the WTO Agreement on Subsidies and Countervailing Measures (the Subsidies Agreement), and by findings in WTO dispute settlement proceedings.

Section 7(5) of the Act provides that where the Secretary¹ is satisfied that sufficient information has not been furnished or is not available to enable the amount of the subsidy to be ascertained for the purposes of the Act, the amount of the subsidy shall be such amount as is determined by the Secretary having regard to all available information that the Secretary considers to be reliable.

MBIE has assessed the alleged subsidy programmes identified in NZ Steel's application on the basis of the information provided in the application and subsequent submissions, questionnaire responses, and other information available to or identified by MBIE. This analysis has considered whether there has been a financial contribution by a government or any public body which provided a benefit to the recipient, and whether any such subsidy was specific. In the light of the limitations on the information available to it, MBIE's analysis of subsidisation was undertaken on the best available information considered to be reliable. On this basis, MBIE concludes that the levels of subsidy determined in the investigation are *de minimis*.²

Injury

MBIE has assessed the extent to which subsidised imports of the subject goods from China may be causing material injury to NZ Steel, based on the provisions of section 8 of the Act, and has concluded that:

- There has not been a significant increase in the volume of imports of the subject goods, over the injury investigation period, in either absolute terms or relative to production or consumption in the domestic market.
- There is evidence of price undercutting by imports from China, and there is also evidence that the domestic industry has experienced price depression and price suppression.
- The domestic industry has experienced an adverse economic impact on profits and related injury factors as a result of the impact of price effects.

However, based on the subsidy levels established, MBIE concludes that material injury to an industry is not being caused by goods that are subsidised.

¹ The Act includes references to decisions to be made by "the Secretary", who is defined in section 3 as "the Chief Executive of the Ministry". The "Ministry" is defined, in turn, as "the department of State that, with the authority of the Prime Minister, is responsible for the administration of the Act." MBIE is the department that administers the Act.

² As defined in Articles 11.9 and 27.10 of the Subsidies Agreement, and reflected in section 11(2) of the Act.

Conclusion

On the basis of the best information available to MBIE that it considers reliable, with regard to imports of galvanised steel coil from China, MBIE does not consider that material injury has been caused to the domestic industry by reason of goods being subsidised.

Submissions on this Report

Interested parties have until **23 June 2017** to make comments on this report. All submissions received prior to this date will be considered by MBIE and taken into account in its recommendations to the Minister of Commerce and Consumer Affairs.

Next stages of the investigation

Following consideration of comments from interested parties on this report, the Minister will make a final determination, by 9 July 2017, on whether or not the subject goods are subsidised and by reason thereof causing material injury to the industry. If the final determination is negative, the investigation will be terminated. If the final determination is positive, then the Minister will proceed to determine the rate or amount of countervailing duty. Notice of the final determination will be provided to the parties in accordance with sections 10A and 13(2) of the Act.

1. Introduction

1.1 Application

1. On 26 September 2016 MBIE accepted a properly documented application from NZ Steel, alleging that galvanised steel coil from China is being subsidised and by reason thereof causing material injury to the New Zealand industry.
2. On 19 December 2016, the Chief Executive initiated an investigation pursuant to section 10 of the Act, being satisfied that for the purpose of initiation the industry had provided sufficient evidence to support its application. This included evidence that:
 - galvanised steel coil from China was being subsidised, and
 - material injury to the New Zealand industry was being caused by subsidised goods imported from China.
3. The investigation is carried out according to the requirements of the Act, including sections 11(1)(c) and section 14(3) which require that the imposition of countervailing duties should be consistent with New Zealand's obligations as a party to the WTO Agreement. Where the Act is silent, or its interpretation requires context, the Subsidies Agreement and relevant WTO dispute settlement findings are used in recognition of New Zealand's obligations as a party to the WTO Agreement.

1.2 Grounds for the Application

4. NZ Steel claimed that the alleged subsidisation of galvanised steel coil from China is causing the company material injury through:
 - increased imports
 - price undercutting
 - price depression
 - price suppressionresulting in:
 - a decline in profits and profitability
 - a decline in return on invested capital
 - a decline in ability to raise capital.
5. NZ Steel stated in its application that the material injury resulting from the importation of allegedly subsidised galvanised steel coil commenced in 2012.
6. In accordance with section 10 of the Act, MBIE's investigation is to determine both the existence and effect of the any subsidisation of galvanised steel coil from China.

1.3 Purpose of this Report

7. This report provides, in accordance with section 10A of the Act, written advice of the essential facts and conclusions that will likely form the basis for any final determination to be made under section 13 of this Act. It should be noted that this Report provides a

summary only of the information, analysis and conclusions relevant to this investigation, and should not be accorded any status beyond that.

8. Interested parties have until **23 June 2017** to make comments on this report. All submissions received prior to this will be considered by MBIE and taken into account in its recommendations to the Minister of Commerce and Consumer Affairs.

1.4 Proceedings

9. MBIE makes available all non-confidential information via the public file for this investigation. Any interested party is able to request both a list of the documents on this file and copies of the documents on it.
10. MBIE requested information from importers, intermediary exporters, Chinese manufacturers, and the GOC. One importer declined to provide information. Several of the intermediary exporters provided information, but only one manufacturer responded to the questionnaire. The GOC provided general comments on programmes identified in the questionnaire, but considered that a GOC questionnaire response would serve no purpose because the GOC was not aware that any Chinese producer intended to submit a questionnaire response.
11. Section 7(5) of the Act provides as follows:

Where the Secretary is satisfied that sufficient information has not been furnished or is not available to enable the amount of the subsidy to be ascertained for the purposes of this Act, the amount of the subsidy shall be such amount as is determined by the Secretary having regard to all available information that the Secretary considers to be reliable.
12. Article 12.7 of the Subsidies Agreement provides as follows:

In cases in which any interested Member or interested party refuses access to, or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available.
13. MBIE requested supplementary information from the GOC and from two of the manufacturers. The GOC provided a response, but the manufacturers did not respond.
14. Information relating to those parties who have not provided information is based on the facts available that MBIE considers to be reliable according to the provisions of the Act and the Subsidies Agreement.
15. NZ Steel requested that provisional measures be imposed on the allegedly subsidised imports during the remaining period of the investigation. On 10 May 2017 the Minister of Commerce and Consumer Affairs decided that she was not satisfied that there were no grounds for the imposition of provisional measures in order to prevent material injury being caused by subsidised imports during the remaining period of investigation.

1.5 Report Details

16. In this report, unless otherwise stated, financial years (FY) are years ending June and dollar values are New Zealand dollars (NZD). In tables, column totals may differ from the sum of individual figures because of rounding. The term VFD refers to value for duty for New Zealand Customs Service (Customs) purposes.
17. The period of investigation for subsidisation is the year ended June 2016, while the investigation of injury involves evaluation of data for the period since July 2011.
18. All volumes are expressed on a tonne basis unless otherwise stated. Exports to New Zealand were generally invoiced in United States dollars (USD). The exchange rates used are those relating to specific transactions, where available, or the Customs exchange rates, or the rate that MBIE considers most appropriate in the circumstances.

2. Subject Goods and New Zealand Industry

2.1 Subject Goods

19. The imported goods that were the subject of the application are described as:

Galvanised steel coil with a thickness equal to or greater than 0.3mm and less than or equal to 1.9mm, and a width greater than 600mm, with a hot dipped galvanised (zinc) coating.

20. The original subject goods and their tariff classification are described as follows:

Description	NZ Steel product name	Tariff classification
<p>0.3mm to 1.6mm thick steel coil (width > 600mm) with a hot dipped galvanised (zinc) coating. Produced to AS1397³</p> <p>Galvanised coated steel is also produced in accordance with a number of other International Standards:</p> <ul style="list-style-type: none"> • ASTM A653/A653M • EN 10346 • JIS 3302 <p>The amount of zinc coating is described as the coating mass, nominated in grams per square meter; common coatings are Z100, Z200, Z275, Z450 and Z600</p>	Galvanised steel coil	<p>Up to 31/1/2017</p> <p>7210.49.31.09</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), 1.6mm or less thick, plated with zinc (not electrolytically)</p> <p>From 1/2/2017</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), plated with zinc (not electrolytically) not alloyed with aluminium</p> <p>7210.49.31.43 thickness less than 0.4mm</p> <p>7210.49.31.45 thickness 0.4mm or more but less than 0.7mm</p> <p>7210.49.31.47 thickness 0.7mm or more but less than 1.0mm</p> <p>7210.49.31.49 thickness 1.0mm or more but less than 1.6mm</p>
<p>Thickness greater than 1.6mm and less than 1.9mm thick steel coil (width > 600mm) with a hot dipped galvanised (zinc) coating. Produced to AS1397</p> <p>Galvanised coated steel is also produced in accordance with a number of other International Standards:</p> <ul style="list-style-type: none"> • ASTM A653/A653M • EN 10346 • JIS 3302 <p>The amount of zinc coating is described as the coating mass, nominated in grams per square meter; common coatings are Z100, Z200, Z275, Z450 and Z600</p>	Galvanised steel coil	<p>Up to 31/1/2017</p> <p>7210.49.31.01</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), greater than 1.6mm thick, plated with zinc (not electrolytically)</p> <p>From 1/2/2017</p> <p>7210.49.31.53</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), plated with zinc (not electrolytically), not alloyed with aluminium, of a thickness of 1.6mm or more but not exceeding 1.9mm</p>

³ AS1397 is an Australian Standard that specifies requirements for continuously hot-dip metallic coated sheet steel & strip (supplied in thicknesses up to and including 5.0mm). It applies to the steel base and coating of metallic coated steel products. The requirements cover chemical composition, mechanical properties, coating mass and coating adhesion.

21. NZ Steel stated that galvanised steel coil is made of carbon steel, with a hot dip galvanised finish commonly used in building applications, and supplied to distributor merchants and manufacturing customers.
22. The subject goods fall under the following Customs tariff item and statistical keys⁴:
 - 7210.49.31.01
 - 7210.49.31.09
23. NZ Steel stated that in late 2015 zinc, aluminium, and magnesium alloy-coated steel was included in the tariff item, whereas previously this product was imported under Harmonised System (HS) Code 7210.61.30.09. According to the applicant, this explains why there was a significant increase in imports, from all countries but especially from Japan, in 2015. The applicant noted that this product is outside the scope of the application.
24. In February 2017, revised statistical keys were introduced covering the tariff item, primarily to differentiate between different coating alloys and to further differentiate product thicknesses.

Imports of Subject Goods

25. Table 2.1 below shows imports of the original subject goods and total imports in the years covering the period of investigation. The imports of galvanised steel coil are based on Customs data for the tariff item and statistical keys for the original subject goods, adjusted by the removal of data for imports from BlueScope Steel Limited (BlueScope),⁵ and imports of steel coil coated with alloys of zinc and aluminium, since the application identifies that these goods are not part of the application. The Customs data includes entries previously misclassified under other tariff items.
26. With regard to official import statistics published by Statistics New Zealand, there has been a data-suppression order in place for tariff item and statistical key 7210.49.31.09 (but not for 7210.49.31.01) since June 2013⁶.
27. Under an import volume monitoring arrangement between MBIE and the steel industry, MBIE provides summaries of imports of goods subject to data suppression. Information is provided on a monthly basis for, *inter alia*, imports of flat rolled steel of items

⁴ New Zealand's Standard Tariff sets out the classification of all international trade goods and import duty rates to provide sufficient detail for duty or statistical purposes, and meets New Zealand's obligations under the International Convention on the Harmonized Commodity Description and Coding System, commonly known as the Harmonized System.

⁵ BlueScope is NZ Steel's Australian parent company.

⁶ Section 37 of the Statistics Act 1975 makes provision for the international trade statistics, together with local authority statistics and business lists, to be subject to less restrictive confidentiality rules than most other statistics. Aggregated data that discloses individual trade transactions is suppressed only if the exporter or importer requests suppression and an identification risk is confirmed. Suppression can be applied for up to 24 months (as is the case for the item here). For the 24-month option only, the importer/exporter will be contacted before the suppression is lifted to see if they want to continue with the suppression. In practice this may result in data being confidential for much longer than 24 months.

7210.90.11.09H and 7210.49.31.09A, showing quantities and values (VFD and cost, insurance and freight) for imports from Australia, Singapore and Other,⁷ but marked 'CONFIDENTIAL' where there are three or fewer importers, plus a source ranking of exporting countries by volume from largest to smallest. It appears that the bulk of the imports are under the tariff item covering the original subject goods entering under 7210.49.31.09. The data suppression is the reason for the confidential treatment accorded to some of the information in this and other tables showing imports.

Table 2.1: Import volumes of galvanised steel coil to New Zealand (tonnes)
Customs data, adjusted*

	FY2012	FY2013	FY2014	FY2015	FY2016
Australia	0	0		-	-
Belgium	0	0		-	
China	2565	3956		54%	118%
India	339	505		-	-
Japan	876	107		224%	125%
Korea	537	136		161%	156%
Taiwan	511	602		47%	241%
USA	41	52		-	-
Total	4869	5359	7376	3995	7080

* Adjusted as described in paragraph 25 above, but see section 2.2.1 below.

2.2 Like Goods and New Zealand Industry

28. Section 3A of the Act defines the term **industry** as:
- a. the New Zealand producers of like goods, or
 - b. such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods.
29. Section 3(1) of the Act defines **like goods**, in relation to any goods, as:
- a. other goods that are like those goods in all respects, or
 - b. in the absence of goods referred to in paragraph (a), goods which have characteristics closely resembling those goods.

2.2.1 Like Goods

30. To establish the existence and extent of the New Zealand industry for the purposes of an investigation into injury, and having identified the subject goods, it is necessary to determine whether there are New Zealand producers of goods which are like those goods in all respects, or have characteristics which closely resemble the subject goods.

⁷ The import monitoring programme was introduced in June 2002 to monitor steel imports so that any increases in imports that could seriously injure the industry could be detected early and the need for safeguard action considered. Under respective bilateral agreements, safeguard measures cannot be taken against imports from Australia and Singapore, hence the need to separate out such imports in the monitoring process.

31. The scope of the subject goods is defined in section 2.1 above.
32. NZ Steel has confirmed that it is the only producer of galvanised steel coil in New Zealand of the size and thickness range which are like goods subject to the application.
33. NZ Steel has advised that it manufactures galvanised steel with dimensions of thickness from 0.32 to 1.85mm, widths from 70mm to 1260mm, and grades G250, G300, G450, G500 and G550, with zinc coating masses (gm/m²) of 100, 275, 350, 450 and 600. The grades are as specified in AS1397.⁸
34. NZ Steel considers that the galvanised steel coil it produces has the same form, function and usage as the allegedly subsidised goods and is therefore “like goods” to the imported goods, as defined under Section 3(1) of the Act. This consideration is based on the grounds outlined below.

Physical Characteristics

35. Products made locally by NZ Steel have the same physical characteristics as the allegedly subsidised goods from China. In particular, NZ Steel’s locally produced galvanised steel coil and the allegedly subsidised galvanised steel coil may be manufactured to the same Australian Standard (AS1397).

Production Methods

36. Production methods for the locally produced steel coil and the allegedly subsidised goods from China are substantially similar.

Function and Usage

37. Both the locally produced and allegedly subsidised goods have comparable or identical end uses. Common (but not exclusive) uses of the products include general manufacturing, cladding, structural elements in building and construction, frames, heating and ventilation.

Pricing

38. The allegedly subsidised goods have a similar pricing structure (with gauge, width and coating extras) to NZ Steel’s manufactured products. An illustration of this is that, in order to maintain market share (sales) in New Zealand, NZ Steel is forced to meet prevailing import offers in respect to particular goods supplied to particular customers.

MBIE Consideration

39. To determine whether the goods produced in New Zealand are like goods to the subject goods, MBIE normally considers physical characteristics, function and usage, pricing structures, marketing and any other relevant considerations, with no one of these factors being necessarily determinative.

⁸ More details of NZ Steel’s products can be found at <http://www.nzsteel.co.nz/products/galvsteel/> accessed on 2 December 2016.

40. Further consideration of like goods was required in light of the limitations on the range (ie the maximum width and spangle⁹) of goods produced by NZ Steel, which is a subset of the subject goods. Information from responses from importer's questionnaires, submissions from the Chinese Chamber of International Commerce, and matters raised during the domestic industry verification visit indicated that NZ Steel produces widths up to 1260mm with regular spangle, while some imports are of wider coils and zero spangle.

41. Article 15.6 of the Subsidies Agreement provides that:

The effect of the subsidized imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

42. Further consideration of like goods was undertaken by MBIE, set out in Annex 1 to this Report, and the conclusions reached were that:

- The goods description need not be changed to account for differences in spangled finishes.
- The goods description should be limited to goods with a width up to 1260mm.

43. Therefore, MBIE proposes that the new subject goods (subject goods) description should read:

Galvanised steel coil with a thickness equal to or greater than 0.3mm and less than or equal to 1.9mm and a width greater than 600mm but not greater than 1260mm, with a hot dipped galvanised (zinc) coating.

44. Information on imports from China prior to FY2016 or from other sources for any period is not available in sufficient detail to identify the widths of shipments of galvanised steel coil. However, it can be concluded that the level of imports from China in FY2016 which meet the revised description above, totalled [REDACTED] tonnes, which is 48 per cent of the total of [REDACTED] tonnes for FY2016 in Table 2.1 above.

2.2.2 New Zealand Industry

45. NZ Steel has stated that it believes it is the only producer of galvanised steel coil in New Zealand. MBIE is not aware of any other producer of galvanised steel coil in New Zealand.

46. Section 10(3) of the Act outlines the minimum level of support required from the domestic industry for the application for an investigation. This requirement has been met as NZ Steel is the only producer of galvanised steel coil in New Zealand.

⁹ "A 'spangle' is the visible aesthetic feature of crystallites on the surface of a galvanised steel sheet. The spangle appears as either a snowflake or a six-pointed star pattern. This is produced on the steel sheet when certain alloying elements are either added to the liquid zinc or available as impurities." Sourced from <https://www.corrosionpedia.com> on 26 April 2017.

3. Interested Parties

3.1 Legal Requirements

47. Section 9 of the Act identifies the parties who are to be given notice for the purposes of the Act, including:

- The Government of the country of export
- Exporters and importers known by the Chief Executive to have an interest in the goods
- The applicant in relation to the goods

48. Article 12.9 of the Subsidies Agreement provides:

For the purposes of this Agreement, "interested parties" shall include:

- (i) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association a majority of the members of which are producers, exporters or importers of such product; and*
- (ii) a producer of the like product in the importing Member or a trade and business association a majority of the members of which produce the like product in the territory of the importing Member.*

This list shall not preclude Members from allowing domestic or foreign parties other than those mentioned above to be included as interested parties.

3.2 New Zealand Producer

49. NZ Steel is an interested party, as it is the sole New Zealand producer of galvanised steel coil and the applicant in this proceeding.

50. Information provided by NZ Steel includes:

- the application which provided the basis for the Initiation Report
- information verified by MBIE during a visit to the company's premises on 2-3 March 2017
- a submission of 27 March 2017 on provisional measures
- a submission of 28 March 2017 on like goods
- a submission of 6 April 2017 on matters raised in and by questionnaire responses
- A submission of 26 May 2017 responding to the Provisional Measures Report.

3.3 Government of China

51. The Government of China is considered an "interested Member" under the Subsidies Agreement.

52. In accordance with the requirements of section 10(9) of the Act consultations with the GOC took place on 30 November 2016, prior to the initiation of the investigation. The matters raised in the consultation were taken into account in the decision to initiate.

53. A questionnaire was provided to the GOC seeking information of both a general nature and also more specifically relating to the identified subsidy programmes, and any assistance provided to Chinese manufacturers of galvanised steel coil. The GOC provided general

comments on programmes identified in the questionnaire, but considered that a GOC questionnaire response would serve no purpose because it was not aware that any Chinese producer intended to submit a questionnaire response.

54. A supplementary questionnaire was provided to the GOC and responses were received on 2 May 2017 and 19 May 2017.

3.4 Manufacturers

55. Chinese manufacturers supplying galvanised steel coil to New Zealand via a range of intermediary exporters were identified from Customs data and questionnaire responses provided by intermediary exporters and importers.
56. Seven manufacturers were identified. Table 3.1 below shows the Chinese manufacturers that have been identified. The companies are listed alphabetically.

Table 3.1: Chinese manufacturers of galvanised steel coil

Manufacturing Company	FY2016 import volume (tonnes)
Angang Steel (Angang)	
Baoshan Iron and Steel Co Ltd (Baoshan)	
Changshu Everbright Material Tech Limited (Changshu)	
Huangshi Sunny Strip Aluminium and Zinc Coated Limited (Huangshi)	
Jiangyin Zong Cheng Steel Co Limited (Zong Cheng)	
Shougang Jingtang United Iron and Steel Co (Shougang)	
Yieh Phui (China) Technomaterial Co Limited (YPC)	nil

57. Information was sought from all manufacturers but only Zong Cheng responded to the Ministry's request for information.

Angang

58. Angang is a limited liability joint venture company, listed in both the Hong Kong Stock Exchange and the Shenzhen Stock Exchange. The major shareholder is Anshan Iron and Steel Group Complex which is 100% owned by Angang Holdings, itself 100% owned by the State-Owned Assets Supervision and Administration Commission (SASAC).

59. Angang operates as an integrated steel mill, and is headquartered in Anshan, Liaoning Province, and has production bases in Anshan, Bayuquan and Chaoyang of the northeast region and Panzhihua, Chengdu, Jiangyou, Xichang and Chongqing in Southwest region.
60. Based on invoices provided by importers and exporters, Angang was a major supplier of galvanised steel coil to New Zealand in FY 2016, providing ████████ tonnes of the subject goods.
61. Angang was subject to investigations into the subsidisation of similar products by the Australian and US authorities.

Baoshan

62. Baoshan is located in Shanghai, China. The company is a subsidiary controlled by Baowu Steel Group (previously Baosteel), and was listed for trading at Shanghai Stock Exchange in 2000. Baowu Steel Group is a state-owned enterprise under the supervision of SASAC. Baoshan is an integrated steel producer.
63. Baoshan provided ████████ tonnes of exports of the subject goods to New Zealand in FY2016.

Changshu

64. Changshu makes thin-gauge galvanised steel coils, used mainly in the automotive and consumer electronics industries. Galvanised steel production capacity is estimated at 750,000 tonnes annually.
65. Changshu is located in Changshu, Jiangsu Province, and operates as a subsidiary of CLSA Capital partners, a Hong Kong-based private equity and venture capital company, whose parent company is CITIC Securities Co Ltd, a Chinese Investment Bank. The largest shareholder in CITIC Securities (16%) is CITIC Group, which is 100% owned by the Chinese Ministry of Finance.
66. Changshu provided ████████ tonnes of the subject goods exported to New Zealand in FY2016.
67. Changshu was subject to investigations into the subsidisation of similar products by the US authorities.

Huangshi

68. Huangshi produces galvanised sheet steels, aluminium alloy plates, cold rolled sheet steels, and other related products, and is located in Huangshi, Hubei Province. The company website identifies Jin Brand Co Ltd as the holding company, which is primarily a beverage company.
69. Huangshi provided ████████ tonnes of exports of the subject goods to New Zealand in FY2016.

Zong Cheng

70. Zong Cheng is a large-scale foreign-owned enterprise, which manufactures and distributes steel products, including colour coated steel coils, hot dip galvanised steel coils, galvanised steel coils, cold rolled steel coils, pickling coils, and other related products. Zong Cheng is located at Xiagang Industrial Park, Jiangyin, Jiangsu Province.
71. Zong Cheng provided ████████ tonnes of the exports of the subject goods to New Zealand in FY2016.

72. A more detailed summary of Zong Cheng’s response to the questionnaire is at section 4.2.3 below.

Shougang

73. Shougang produces iron and steel including steel sheets, pipes and slabs, was founded in 2005 and is based in Tangshan City, Hebei Province. As of 2005, Shougang is a subsidiary of Shougang Group Corp, which is owned by the Government of Beijing (79.40 per cent), with the parent being the State-owned Assets Supervision and Administration Commission of the Government of Beijing.
74. Shougang is an integrated steel producer.
75. Shougang provided ██████ tonnes of exports of the subject goods to New Zealand in FY2016.

YPC

76. Yieh Corp, the parent company, is headquartered in Kaohsiung, Taiwan and branch companies are located in Shanghai, China and Canada. YPC produces hot rolled pickled coils, cold rolled coils, hot-dip galvanised coils, and pre-painted galvanised coils, and is located in Jiangsu Province.
77. YPC was subject to investigations into the subsidisation of similar products by the Australian and US authorities.
78. A more detailed analysis of Customs data has confirmed that YPC did not produce any of the subject goods exported to New Zealand in FY2016.

3.5 Trading Intermediaries

79. Trading intermediaries (exporters) were identified from Customs data and from questionnaires sent to known importers and manufacturers.
80. Table 3.2 below shows eight exporters, primarily trading companies acting as intermediaries between Chinese producers and New Zealand importers, who were originally identified as exporting the subject goods in FY2016. The companies are listed alphabetically.

Table 3.2: Trading Intermediaries for galvanised steel coil

Exporting company	Company Location	FY2016 import volume (tonnes)
Commercial Metals (CMC)	Sydney, Australia	██████
CITIC Australia Commodity Trading Pty Ltd (CITIC)	Sydney, Australia	nil
Cumic Steel Ltd (Cumic)	Hong Kong, China	██████
Marubeni-Itochu Steel	Melbourne, Australia	██████

Oceania Pty Ltd (Marubeni)		
RGS Enterprises Ltd (RGS)	Singapore	nil
Stemcor (SEA) Pte Ltd (Stemcor)	Singapore	█
Vast Link International Co Ltd (Vast Link)	Shanghai (headquarters), China	█
Yieh Corp	Shanghai, China	█

81. Information was sought from all eight companies but only CMC, Marubeni, RGS Enterprises and Stemcor responded to the Ministry's request for information.

CMC

82. CMC responded to the questionnaire. CMC's headquarters are in Sydney.

83. CMC is a 100% fully-owned subsidiary of Commercial Metals Company, which is a US-based company, listed on the New York Stock Exchange. CMC is a trading company, primarily in the business of importing steel products into Australia and New Zealand.

84. CMC provided █ tonnes of the subject goods exported to New Zealand in FY2016.

CITIC

85. CITIC did not respond to the questionnaire.

86. A more detailed analysis of Customs data has confirmed that CITIC did not handle any of the exports of the subject goods during FY2016.

Cumic

87. Cumic Steel did not respond to the questionnaire. Cumic Steel is based in Hong Kong.

88. Cumic Steel provided █ tonnes of the subject goods exported to New Zealand in FY2016.

Marubeni

89. Marubeni provided a response to the questionnaire. Marubeni is based in Melbourne and operates as an intermediary between customers and steel manufacturers.

90. Marubeni provided █ tonnes of the subject goods exported to New Zealand in FY2016.

RGS

91. RGS provided a limited response to the questionnaire.

92. A more detailed analysis of Customs data has confirmed that RGS did not handle any of the exports of the subject goods during FY2016.

Stemcor

93. Stemcor responded to the questionnaire. Stemcor has a branch office in Auckland which is responsible for making offers for supply of steel to New Zealand customers. Stemcor's headquarters are in Singapore, and it has an Australian branch based in Sydney.
94. Stemcor provided [REDACTED] tonnes of the subject goods exported to New Zealand in FY2016.

Vast Link

95. Vast Link did not respond to the questionnaire.
96. Vast Link's headquarters are in Zhabei District, Shanghai, and its production base is in Foshan City, Guangdong Province. Vast Link does not produce galvanised steel coil itself, but information from the importer confirmed the source of the subject goods exported to New Zealand.
97. Vast Link provided [REDACTED] tonnes of the subject goods exported to New Zealand in FY2016.

Yieh Corp

98. Yieh Corp did not respond to the questionnaire. Yieh Corp's headquarters are in Kaohsiung, Taiwan.
99. Yieh Corp provided [REDACTED] tonnes of the subject goods exported to New Zealand in FY2016.

3.6 Importers

100. New Zealand-based importers were identified from Customs data. Table 3.3 below shows the importers that MBIE has identified.

Table 3.3: Importers of galvanised steel coil

Importing company	FY2016 import volume (tonnes)
Fletcher Steel Limited, trading as Easy Steel (Easy Steel)	[REDACTED]
Kiwi Steel Limited (Kiwi Steel)	[REDACTED]
R C Macdonald Limited (RCML)	[REDACTED]
Roll Formers New Zealand Limited (Roll Formers)	[REDACTED]
Steel and Tube Holdings Limited (STH)	[REDACTED]
Steel Co Limited (Steel Co)	[REDACTED]
Vulcan Steel Limited (Vulcan)	[REDACTED]

101. Six of the importers above completed the questionnaires. Steel Co declined to provide information, citing commercial sensitivity.

Easy Steel

102. Easy Steel imports Chinese-origin steel from [REDACTED]. It also imports non-Chinese origin steel from [REDACTED], and [REDACTED].

103. Easy Steel sells the majority of its products to steel processors, including general engineering companies, structural steel fabricators, and manufacturing companies. These companies process the steel as part of a manufactured product which is then sold to the end user.

104. Easy Steel claims that the imposition of a countervailing duty on Chinese steel imports would result in it raising its prices as part of its aim to provide import parity.

105. Easy Steel imported [REDACTED] tonnes of the subject goods from [REDACTED] in FY2016.

Kiwi Steel

106. Kiwi Steel stocks flat-rolled steel products, including the subject goods, and wholesales to manufacturers. Most of the customers are manufacturers of building products. Kiwi Steel's major customers for Chinese galvanised steel products are [REDACTED] and [REDACTED].

107. In FY2016 Kiwi Steel imported [REDACTED] tonnes of the subject goods from [REDACTED] and [REDACTED].

108. Kiwi Steel claims that the imposition of a countervailing duty on galvanised steel coil would not affect the overall balance of galvanised steel sales in New Zealand, because even if the price for the subject goods increases there are other source countries of cheap imports.

RCML

109. Imported galvanised coil makes up [REDACTED]% of RCML's total sales, and is sold primarily to a New Zealand-based manufacturing company.

110. RCML imported [REDACTED] tonnes of the subject goods from [REDACTED] in FY2016.

111. RCML claims that the imposition of a countervailing duty on the subject good would not change the quantities of the company's imports. RCML believes there would be reduced competition causing an increase in the cost of building in New Zealand.

Roll Formers

112. Roll Formers manufactures product from the subject goods, which it sells as finished products into the New Zealand market. Roll Formers is both a customer and supplier of [REDACTED].

113. Roll Formers imported [REDACTED] tonnes of the subject goods from [REDACTED] in FY2016.

114. Roll Formers claims it cannot [REDACTED] if using NZ-manufactured steel. It claims a tariff applied to the subject goods would make Roll Formers [REDACTED].

STH

115. STH claims to be the largest manufacturer, supplier and distributor of steel products in New Zealand, including a comprehensive range of structural steel, bar and plate products, and hollow steel sections.

116. In FY2016 STH imported [REDACTED] tonnes of the subject goods from [REDACTED].

Steel Co

117. Steel Co did not provide a response to the questionnaire, citing concerns that the information required would [REDACTED].

118. Steel Co imported [REDACTED] tonnes of the subject goods from [REDACTED] in FY2016.

Vulcan

119. Vulcan provided a response to the questionnaire and details of [REDACTED] tonnes of the subject goods imported from [REDACTED] and [REDACTED], which included imports originally [REDACTED].

3.7 Other Interested Parties

120. The China Chamber of International Commerce (CCOIC) asked to be an interested party to the investigation, and made a submission on injury, causality and other relevant elements of the investigation, including procedural elements. The initial submission by the CCOIC was dated 22 February 2017.

4. Subsidisation Investigation

4.1 Subsidisation

121. The Act defines 'subsidy', 'subsidised goods' and 'specific subsidy' in section 3, which reflect the definitions and descriptions set out in the Subsidies Agreement:

***subsidy** includes any financial or other commercial benefit that has accrued or will accrue, directly or indirectly, to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export, or import of goods, as a result of any scheme, programme, practice, or thing done, provided, or implemented by a foreign Government; but does not include the amount of any duty or internal tax imposed on goods by the Government of the country of origin or country of export from which the goods, because of their exportation from the country of export or country of origin, have been exempted or have been or will be relieved by means of refund or drawback.*

***subsidised goods** means goods in respect of the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export, or import of which a specific subsidy has been or will be paid, granted, authorised, or otherwise provided, directly or indirectly, by a foreign Government.*

***specific subsidy** means a subsidy that is specific to an enterprise or industry, or a group of enterprises or industries, within the jurisdiction of a foreign Government.*

122. Under Article 1.1 of the Subsidies Agreement, a subsidy is deemed to exist if:

- There is a **financial contribution** by a **government or any public body**, including a direct transfer of funds (eg grants, loans, equity infusions), government revenue that is foregone or not collected (eg tax credits), and the provision or purchase by government of goods or services; and
- The financial contribution confers a **benefit**.

123. Under Article 1.2 of the Subsidies Agreement, subsidies meeting the requirements of Article 1.1 are countervailable under Part V of the Agreement only if they are **specific** in accordance with the provisions of Article 2, i.e. the subsidy is limited to an enterprise or industry or group of industries or enterprises, including geographical limitation, or if the subsidies are contingent on export performance or the use of domestic over imported goods.

124. As defined in section 7(1) of the Act, the **amount of the subsidy**, in relation to any subsidised goods, means the amount determined by the Secretary as being the benefit conferred on the recipient of the subsidy. Section 7(2) of the Act sets out limitations on the nature and calculation of the benefit, based on the provisions of Article 14 of the Subsidies Agreement, while section 7(3) sets out amounts that are not to be included in the amount of the subsidy, including any application fee or other fees, or costs necessarily incurred in order to qualify for, or receive the benefit of, the subsidy. Section 7(4) sets out the basis for determining adequate remuneration in terms of section 7(1)(d), reflecting the provisions of Article 14(d) of the Subsidies Agreement.

125. The definitions relating to “subsidy” in section 3 of the Act refer to a financial or commercial benefit provided by “a foreign Government”. MBIE treats this as including “Government” in both the narrow and collective sense described by the WTO Appellate Body¹⁰, and as provided for in the parentheses in Article 1.1(a)(1) of the Subsidies Agreement.
126. Section 7(5) of the Act provides that where the Secretary is satisfied that sufficient information has not been furnished or is not available to enable the amount of the subsidy to be ascertained for the purposes of this Act, the amount of the subsidy shall be such amount as is determined by the Secretary having regard to all available information that the Secretary considers to be reliable.

4.2 Basis for Investigation of Subsidisation

127. The information available to MBIE in investigating the subsidisation of galvanised steel coil from China includes:
- Information contained in NZ Steel’s application and subsequent submissions
 - Information obtained during MBIE’s verification visit to NZ Steel
 - Responses by the GOC to the Government Questionnaire and Supplementary Questionnaire
 - Responses to importer/exporter/manufacturer questionnaires
 - Information arising from MBIE’s independent research into the matters raised.

4.2.1 NZ Steel Application

128. In its application, NZ Steel set out the sources of information it used in seeking to identify subsidies available to the subject goods. These sources included subsidy applications by industry and investigations undertaken by Australian and United States investigating authorities, and reports and commentary on the Chinese steel industry.
129. The application listed the subsidy programmes identified by the Australian and United States authorities. For the purposes of estimating an amount of subsidy applicable to the subject goods, on the basis of reasonably available information, the application identified ten subsidy programmes, and provided a breakdown and explanation of the programmes based on US Department of Commerce (US DOC) findings relating to a cooperating Chinese producer.
130. NZ Steel pointed to general commentary about the extent to which the Chinese steel industry is allegedly benefitting from various forms of subsidies to a material level. It quoted a number of published articles on the Chinese steel industry, including Reuters (UK), which claimed that subsidies accounted for significant and growing percentages of revenue in 2013-2014, and that government subsidies, largely from local governments, were channelled to the steel, cement and property sectors in the form of cash, tax rebates

¹⁰ WTO Appellate Body Report WT/DS379/AB/R, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, at p.111.

or support for loan repayments. News agency summaries of a 2007 report by Wiley Rein LLP, updated in 2010, were also cited, with the report documenting allegedly massive government subsidies covering preferential loans and directed credit, equity infusions and/or debt-to-equity swaps, land-use discounts, government-mandated mergers, and direct cash grants. The application stated that these articles outline the extent and impact of the subsidisation of the Chinese steel industry.

131. NZ Steel believed that these commentaries showed that the expansion of the Chinese steel industry was the direct result of the GOC's direction and control of the industry, and its bestowal of an extraordinary range of subsidies to Chinese steel producers. According to NZ Steel, this showed that the growth of China's steel industry was being both financed and directed by the GOC. NZ Steel noted that eight of the ten largest Chinese steel groups are one hundred per cent owned or controlled by the GOC, while 19 of the top 20 groups are majority owned or controlled by the government.
132. In the Initiation Report, MBIE noted that reports and news articles will not normally by themselves provide sufficient evidence of the existence of subsidies, but need to be considered in the context of other sources of information, and an understanding of the perspective of the authors of the reports.
133. NZ Steel stated that it had been unable to identify the mills supplying New Zealand so was unable to conclude whether programmes relating to particular regions might be applicable. The claims that the programmes are specific subsidies were based primarily on the findings of US DOC and other investigating authorities, while the rates of alleged subsidy found were based on US DOC's calculations using a range of benchmarks. It appears from the information provided that to a large extent the US DOC findings were based on 'facts otherwise available' and 'adverse facts available', and in particular on findings from other investigations (including investigation involving products other than the subject goods).
134. For the programmes that NZ Steel identified and for which more detailed information was provided as noted above, the level of alleged subsidy totalled 39.05 per cent. This reflected the total of the amounts of benefit provided by the subsidy programmes concerned to the cooperating producer (YPC), as established by the US authorities.
135. In the Initiation Report MBIE noted that some of the programmes identified were not relevant or no longer applied.
136. NZ Steel has made additional submissions on matters relating to provisional measures and the interpretation of the best information available, including references to European Union (EU) investigations undertaken by the European Commission (EC).
137. NZ Steel made a detailed submission in response to the Provisional Measures Report, in which it stressed the significance of findings by investigative authorities in other jurisdictions, and challenged the bases for MBIE's provisional conclusions on subsidisation.
138. MBIE's analysis of the subsidy programmes in the following sections of this report addresses the matters raised by NZ Steel.

4.2.2 GOC Questionnaire Response

139. In its questionnaire response the GOC provided general comments relating to the alleged subsidy programmes, which it claimed demonstrated that the alleged programmes did not meet the subsidy definition set out in Article 1.1 of the Subsidies Agreement. The GOC claimed that it was able to provide only general responses because any specific assistance received by Chinese producers of galvanised steel coil is not known by the GOC due to the lack of cooperation with the investigation by such producers.¹¹
140. The GOC response attached copies of a range of laws, regulations, rules and guidelines to support the general comments.
141. Supplementary Questionnaires were provided to the GOC, addressing issues which had emerged regarding particular programmes. A response was provided on 2 May 2017 which clarified the position regarding export buyer's credits, while a further response was provided on 19 May 2017 addressing questions on policy loans, import tariff exemptions, grants, and other subsidies.

4.2.3 Exporter's/Manufacturer's Questionnaire Responses

142. Exporter's Questionnaires were sent to known exporters, but these companies were intermediaries which are unlikely to be involved in any of the alleged subsidy programmes under investigation. CMC, Marubeni, RGS and Stemcor provided responses to the Exporter's Questionnaire.
143. MBIE sent Manufacturer's Questionnaires to all of the known manufacturers. The only Manufacturer's Questionnaire response was received from Zong Cheng.

Zong Cheng

144. Zong Cheng provided a detailed response to the questionnaire. Zong Cheng, which was established in 2004 as a wholly foreign-owned enterprise, is located in Jiangyin City, Jiangsu Province, China.
145. In FY 2016 Zong Cheng exported [REDACTED] tonnes of the subject goods to [REDACTED]. Total exports to New Zealand included shipments of galvanised steel coil falling outside the description of the subject goods because the coil was thicker than 1.9mm. Zong Cheng does not actively seek orders in export markets, but receives orders from [REDACTED]. Upon receiving an order inquiry from [REDACTED], Zong Cheng [REDACTED] which takes account of the [REDACTED]. Upon acceptance by [REDACTED] and agreement of terms and conditions, [REDACTED], with hot rolled coil feed material being purchased for a particular order. Prices are [REDACTED].

¹¹ Zong Cheng did provide a questionnaire response, but this is not reflected in the GOC response.

. A sale.

146. Zong Cheng provided specific comments on the alleged subsidy programmes.
147. MBIE has not conducted a verification visit to the premises of Zong Cheng, nor is it intended that such a visit will be made. Verification visits are not required by Act or the Subsidies Agreement.¹² The extent to which the information provided by Zong Cheng can be considered reliable is assessed by MBIE in the context of all of the information available.

Other Manufacturers

148. No other manufacturers provided questionnaire responses. While the failure to provide questionnaire responses may reflect the comparative insignificance of exports to New Zealand in the context of a manufacturer's total business, it does materially affect MBIE's ability to source information and to draw appropriate conclusions relating to the level of subsidisation that might be applicable. In such circumstances, MBIE must make a judgement on the reliability of the information before it, and use the best information that is available to it in order to reach a conclusion.

4.2.4 Other information

149. MBIE has undertaken further research into matters relating to the alleged subsidisation of Chinese production and exports of galvanised steel coil to New Zealand, including the review of the investigations by other authorities referred to in the application, and the various general commentaries identified by the applicant.

Australian Investigations

150. MBIE undertook a review and analysis of reports of Australian subsidy investigations into goods from China, and in particular the various reports in Investigation 193¹³ into the alleged subsidisation of zinc coated steel and aluminium zinc coated steel from China, which took place in 2012-13. The scope of the goods covered was broader than the galvanised steel coil covered by this investigation. The information from Australian investigations includes questionnaire responses from Chinese manufacturers which are also parties to the current investigation.
151. The Australian Investigation 193 concluded that galvanised steel exported from China was subsidised with the following subsidy margins:

¹² See *Argentina – Ceramic Tiles*, relating to the Anti-Dumping Agreement, which noted, at footnote 65, page 178, "There does not exist a requirement in the Agreement to carry out investigations in the territory of other Members for verification purposes. Article 6.7 of the Anti-dumping Agreement merely provides for this possibility. While such on-site verification visits are common practice, the Agreement does not say that this is the only way or even the preferred way for an investigating authority to fulfil its obligation under Article 6.6 to satisfy itself as to the accuracy of the information supplied by interested parties on which its findings are based." This finding was endorsed by the panel in *Egypt – Steel Rebar* (WTO document WT/DS211/R, p 79). The Subsidies Agreement, in Article 12.6, contains similar provisions to the Anti-Dumping Agreement.

¹³ <http://www.adcommission.gov.au/cases/Documents/064-REP193.pdf> accessed on 3 April 2017.

ANSTEEL (Angang)	Negligible
TAGAL	Negligible
Wuhan Iron and Steel Co Ltd	12.5%
YPC	5.2%
Non-cooperating exporters	22.8%

US DOC Investigations

152. MBIE has reviewed the available documentation in the US DOC investigation of certain corrosion-resistant steel products from China, which took place in 2015-16. The goods covered included coated and alloyed corrosion-resistant steel, and was broader than the galvanised steel coil covered by this investigation. The US DOC outlined the basis for its consideration of issues relating to the existence and amount of subsidies in the Issues and Decision Memorandum for the Final Determination¹⁴ in that case. YPC was the sole cooperating mandatory respondent in that proceeding, and the analysis of programmes related to that company, and to the programmes identified by NZ Steel in its application. In addition, the US DOC addressed a number of issues, including questions relating to “public body” (“authorities” in the US context), specificity, and use of benchmarks.

153. The outcome of the US investigation was to establish subsidy rates as follows:

Yieh Phui (China) Technomaterial Co Ltd (YPC)	39.05%
Angang Group Hong Kong Company Ltd	241.07%
Baoshan Iron & Steel Co Ltd	241.07%
Duferco S.A , Hebei Iron & Steel Group, and Tangshan Iron and Steel Group	241.07%
Changshu Everbright Material Technology	241.07%
Handan Iron & Steel Group	241.07%
All-Others	39.05%

154. Information from other US investigations has been reviewed where appropriate.

European Union Investigations

155. The EU, through its investigating authority, the European Commission (EC), undertook an investigation in 2012-13, into imports of certain organic coated steel products from China.¹⁵ The goods covered do not include galvanised steel coil. The investigation covered the programmes relating to government provision of goods and services for less than adequate remuneration, preferential loans and interest rates, equity programmes, income and other direct taxes, indirect tax and import tariff programmes, grant programmes, the purchase by the Government of goods for higher than adequate remuneration, other regional programmes, and ad hoc subsidies referred to in the application.

¹⁴ <http://enforcement.trade.gov/frn/summary/prc/2016-12962-1.pdf> accessed on 3 April 2017.

¹⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:073:0016:0097:EN:PDF>.

156. Issues addressed included non-cooperation and best information available, “public body”, specificity, and benchmarks.

157. The outcome of the EU investigation established the following levels of subsidy:

Zhangjiagang Panhua Steel Strip Co., Ltd.; Chongqing Wanda Steel Strip Co., Ltd.; Zhangjiagang Free Trade Zone Jiaxinda International Trade Co., Ltd.	29.70%
Zhejiang Huadong Light Steel Building Material Co. Ltd.; Hangzhou P.R.P.T. Metal Material Co., Ltd.	23.80%
Union Steel China	26.80%
Other cooperating companies	26.80%
Other companies	44.70%

158. Information from other EU investigations has been reviewed where appropriate.

WTO Documentation and Dispute Settlement Reports

159. WTO documentation includes reports by Members on specific subsidy programmes which they operate, while reports of dispute settlement cases by panels and the Appellate Body provide a basis for analysing and assessing the treatment of programmes under domestic legislation and WTO rules.

Other Information

160. Other information obtained by MBIE includes copies of government laws, regulations and other instruments; academic articles on issues raised; relevant news reports and commentaries; financial reporting by companies and organisations investigated; and prices, interest rates and other reference material.

Identified Programmes

161. The alleged subsidy programmes identified in NZ Steel’s application are as follows.

Table 4.1: Alleged Subsidy Programmes

Programme number	Programme description	Programme type	Level of Alleged Subsidy
1	Policy loans to the corrosion-resistant steel industry	Grants or loans	0.86%
2	The provision of land-use rights for less than adequate remuneration	Goods or services	0.36%
3	The provision of hot-rolled steel at less than adequate remuneration	Goods or services	23.74%
4	The provision of cold-rolled steel at less than adequate remuneration	Goods or services	2.11%
5	The provision of zinc at less than adequate remuneration	Goods or services	0.22%

6	The provision of electricity at less than adequate remuneration	Goods or services	0.58%
7	Import tariff exemption for FIEs and certain domestic enterprises using imported equipment in encouraged industries	Revenue foregone	0.56%
8	Export buyer's credits	Grants or loans	10.54%
9	Reported grants	Grants or loans	0.02%
	Total		38.99%

162. MBIE notes that the investigation has identified some other subsidy programmes that may be providing a benefit to manufacturers of subject goods exported to New Zealand. These programmes are referred to in the commentary below.

4.3 General Interpretation

163. There are a number of matters of general interpretation raised in this investigation which affect the determinations reached on particular programmes. These matters are outlined in this section of the Report.

4.3.1 Best Information Available

164. Section 7(5) of the Act provides “where the Secretary is satisfied that sufficient information has not been furnished or is not available to enable the amount of the subsidy to be ascertained for the purposes of the Act, the amount of the subsidy shall be such amount as is determined by the Secretary having regard to all available information that the Secretary considers to be reliable.”

165. The conclusions reached by MBIE are based on all available information that MBIE considers to be reliable. In accordance with Article 12.7 of the Subsidies Agreement, where any interested Member or interested party refuses access to or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, determinations relating to provisional measures may be made on the basis of the facts available. It should be noted that the Subsidies Agreement does not include an equivalent to Annex II of the Anti-Dumping Agreement which sets out provisions to be observed in applying the equivalent provision in that Agreement. The lack of such an Annex was a deliberate decision by the negotiators of the Subsidies Agreement.^{16,17}

¹⁶ Based on recollection of New Zealand negotiator who was engaged in negotiations in 1994 to harmonise texts of Anti-Dumping and Subsidies Agreements.

¹⁷ However, the view of the Appellate Body in *United States — Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436), WTO document WT/DS436/AB/R, noted “Thus, while Annex II to the Anti-Dumping Agreement does not form part of the SCM Agreement, it has been found by the Appellate Body to be relevant context for the interpretation of Article 12.7.”

166. With regard to the information to be considered and the basis for its evaluation, the Appellate Body *in US – Carbon Steel India*¹⁸ accepted the Panel view that the standard in Article 12.7 of the SCM Agreement requires that all substantiated facts on the record be taken into account, that "facts available" determinations have a factual foundation, and that "facts available" be generally limited to those facts that may reasonably replace the missing information. The Appellate Body added the requirement that the purpose of the process was to facilitate arriving at an accurate determination. The Appellate Body also noted, "we would expect that a process of reasoning and evaluation in respect of the "facts available" on the record flows from the legal standard for Article 12.7, although the degree and nature of the reasoning and evaluation required will depend on the circumstances of a particular case. Where there are several "facts available" from which to choose, it would seem to follow naturally that the process of reasoning and evaluation would involve a degree of comparison."
167. In the Initiation Report, MBIE noted that care needed to be taken in assessing the use of information from investigations and findings of counterpart authorities. While MBIE considered this information provided a sufficient basis for initiating an investigation into the existence of subsidisation, it should be noted that many of the findings of counterpart authorities were based on use of adverse facts available arising from the alleged failure of Chinese parties to provide information to the investigating authorities.
168. With regard to the information relating to Australian and US investigations into similar products, MBIE notes that widely differing subsidy rates were found for the same Chinese manufacturers, e.g. Australia determined that the subsidy margin for Angang was negligible, while the US determined it to be 240.07 per cent, and for YPC the respective rates were 5.2 per cent and 39.05 per cent. While these differences may reflect the particular situations of each investigation, they do illustrate the need for caution in assessing the reliability of the information derived from those sources.
169. In considering the reliability of the information available to it, MBIE recognises the need for care in that non-cooperation from interested parties should not be rewarded or encouraged. MBIE notes that in DS436 the Panel and the Appellate Body found (for different reasons) that the US rules on the use of adverse inferences in the case of non-cooperation were not inconsistent 'as such' with the Subsidies Agreement. However, the Panel found that in a significant number of instances the application of the rules was not consistent with the Subsidies Agreement. This suggests that there can be issues about the reliability of findings which rely on adverse facts available in situations where it is claimed that parties are not cooperating.
170. Accordingly, MBIE has based its assessments on information from a variety of sources, and its conclusions reflect a careful evaluation of the reliability that can be attached to them, as they relate to the circumstances of the case before it.

¹⁸ *United States – Countervailing Measures on Certain Hot-Rolled Steel Flat Products from India*, WT/DS436/AB/R.

4.3.2 Public Body

171. Under Article 1.1 of the Subsidies Agreement, a subsidy exists if there is a financial contribution by a government or any public body (“a financial or other commercial benefit” by “a foreign Government” in the terms of section 3(1) of the Act). A number of the programmes investigated relate to claims that there is a financial contribution by a government or any public body, where the entity providing the financial contribution may not be a part of the government in the narrow sense of being an agency of government at a national or sub-national level, but does have characteristics or functions that suggest that it is exercising governmental authority or functions.
172. It is clear from the WTO jurisprudence that any approach to developing a basis for determining whether or not an entity is a ‘public body’ for the purposes of a subsidy investigation must be carefully considered, bearing in mind the Appellate Body’s view that an investigating authority must avoid focusing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant. MBIE has undertaken an analysis of the WTO jurisprudence,¹⁹ and concludes that the key elements to be investigated when determining whether or not an entity is a “public body” include:
- The context, including the scope and content of government policies relating to the sector.
 - The entity’s core characteristics and functions.
 - The governmental authority and functions involved.
 - The relationship between the entity and the government.
 - The nature of the entity’s performance of the functions at issue.
173. The evidence to be assessed, bearing in mind that this is not an exhaustive list and will not necessarily be determinative on its own as to whether an entity is a public body, includes:
- The statutory basis for the entity and whether there is an express delegation of authority or functions.
 - The extent to which the entity is exercising authority or functions in a sustained and systematic practice.
 - Evidence that a government exercises meaningful control over an entity such that the entity possesses governmental authority and exercises such authority in the performance of governmental functions.
 - The ownership of the entity, including the extent of government ownership.
 - Whether the entity has the power to regulate.
 - Whether the entity has the power to entrust or direct a private body to undertake the functions in Article 1.1(a) of the Subsidies Agreement.

¹⁹ Mainly, WTO Appellate Body and Panel Reports for *United States — Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (DS379); *United States — Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436); *United States — Countervailing Duty Measures on Certain Products from China* (DS437).

- Whether the government uses the entity's resources as its own.
 - The extent of government involvement in entity governance, including presence on the board of directors.
 - The extent of government control over activities.
 - The extent to which the entity operates in pursuit of governmental policies or interests.
174. The identification of an entity as a "government or any public body" does not, on its own, provide a basis for concluding that a subsidy exists. There must be a financial contribution in the form of one of the activities set out in Article 1.1(a)(1)(i)-(iv) of the Subsidies Agreement, which also confers a benefit to the recipient, and which is specific.
175. The issue of whether or not there is a financial contribution by a public body arises in relation to the following programmes specifically identified for investigation:
- Policy loans to the corrosion-resistant steel industry²⁰
 - Provision of input materials at less than adequate remuneration
 - Provision of electricity at less than adequate remuneration
 - Export buyer's credits.
176. With regard to the context within which commercial activity is undertaken in China, it is useful to note the comments by the Appellate Body in DS379, that "no two governments are exactly alike, the precise contours and characteristics of a public body are bound to differ from entity to entity, State to State, and case to case".
177. China's Constitution²¹ states that the People's Republic of China "is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants," and that the state organs "apply the principle of democratic centralism", while "The state ensures the consolidation and growth of the state economy." The Constitution is clear that the state is the controlling body. Since the 1970s, China has moved towards a more market-oriented mixed economy under one-party rule. The Third Plenum of the 18th Central Committee of the Communist Party of China in November 2013 made a key decision to assign the market a decisive role in allocating resources. Today, China can be characterized as having a market economy based on private property ownership, and is one of the leading examples of state capitalism. The state still dominates in strategic "pillar" sectors such as energy production and heavy industries, but private enterprise has expanded enormously.
178. In this context, it is not surprising that many manufacturing enterprises in the steel sector and financial institutions in the economy as a whole are owned partly or fully by the State, and that they operate within an environment of broad government policies and plans for the development of the sector. However, as the WTO Appellate Body has recognised, ownership on its own is not sufficient to bring such entities into the ambit of Article

²⁰ Loans made by policy banks.

²¹ <http://en.people.cn/constitution/constitution.html> accessed on 2 April 2017.

1.1(a)(1) of the Subsidies Agreement, and there needs to be an examination of the extent to which the entity is, in fact, exercising governmental authority or functions in a sustained and systematic practice. MBIE also notes the view of the Australian Anti-Dumping Review Panel (ADRP) that active compliance with governmental policies and regulations does not equate to the exercise of governmental functions or authority, and acting in accordance with a government policy and carrying out government functions should not be conflated.

179. In its submission of 26 May 2017, NZ Steel noted that MBIE had correctly identified the range of factors to be considered in determining whether an entity is a public body, but considered that MBIE had failed to adequately consider or give sufficient weight to the findings of overseas jurisdictions. NZ Steel claimed that MBIE had given undue weight to the 2013 report of the ADRP,²² claiming that the ADRP required that to be considered “public bodies” steel state-owned enterprises (SOEs) must exercise coercive power over third persons, which was at odds with WTO case law and the approach taken by other authorities which focused on assessing a range of other factors to determine whether an entity possesses, exercises or is vested with government authority.
180. In considering the particular programmes in section 4.4 below, MBIE has addressed the key elements and evidence described above as they relate to the bodies identified as providing financial contributions. In doing so, it has taken into account the findings in other jurisdictions and the views of WTO dispute bodies, and the information available to it.

4.3.3 Specificity

181. Section 3(1) of the Act defines a specific subsidy as a subsidy that is specific to an enterprise or industry, or group of enterprises or industries, within the jurisdiction of a foreign Government. The Subsidies Agreement provides context for the interpretation of “specific”.
182. Article 1.2 of the Subsidies Agreement provides that a subsidy, as defined in Article 1.1, shall be subject to the provisions of Part V of the Agreement (ie the provisions relating to Countervailing Measures), if such a subsidy is specific in accordance with the provisions of Article 2 of the Agreement.
183. Article 2 of the Subsidies Agreement provides as follows:
- Article 2.1 sets out principles to be applied in determining whether or not a subsidy is specific to an enterprise or industry, or group of enterprises or industries (referred to as “certain enterprises”), and covers explicit limitation of access by the granting authority or in legislation (specific), the use of objective criteria or conditions for eligibility (not specific), and *de facto* specificity. Objective criteria and conditions are defined in footnote 2 to Article 2.1(b) as “criteria or conditions which are neutral, which do not favour certain enterprises over others, and which are economic in

²² <http://www.adreviewpanel.gov.au/PastReviews/Documents/ADRPReviewReportMOFCOM-November2013AmendedFINAL.pdf> accessed on 7 June 2017.

nature and horizontal in application, such as number of employees or size of enterprise.”

- Article 2.2 provides that a subsidy limited to certain enterprises within a designated geographical region within the jurisdiction of the granting authority shall be specific, although the setting or change of generally applicable tax rates by all levels of government shall not be deemed a subsidy.
- Article 2.3 provides that any subsidy falling under the provisions of Article 3 shall be deemed to be specific. This covers prohibited subsidies including subsidies contingent on export performance or import replacement.
- Article 2.4 requires that any determination of specificity shall be clearly substantiated on the basis of positive evidence.

184. In the current case, the main specificity issue arises in relation to the question of the breadth of the industry or industries to be caught by “certain enterprises”, and the extent to which assistance to the steel industry is specific.

185. In DS379, the WTO Appellate Body noted that in *US — Upland Cotton*²³ the panel considered that an “industry” or “group of industries”, for the purposes of the chapeau of Article 2, may generally be understood in terms of producers of particular types of product, although the breadth of this concept of “industry” may depend on several factors in a given context. Hence, the specificity of a subsidy can only be assessed on a case-by-case basis.

186. The Appellate Body, in DS379, saw merit in the view that the concept of “specificity” in Article 2 of the SCM Agreement serves to acknowledge that some subsidies are broadly available and widely used throughout an economy and are therefore not subject to the Agreement’s subsidy disciplines. The Appellate Body analysed the words used in Article 2, which suggested that the term “certain enterprises” refers to a single enterprise or industry or a class of enterprises or industries that are known and particularised, but agreed that the concept of specificity involved a certain amount of indeterminacy at the edges, and that any determination of whether a number of enterprises or industries constitute “certain enterprises” can only be made on a case-by-case basis.

Specificity and the Steel Industry in China

187. In the current case, the issue arises in relation to the basis for provision of financial assistance under a number of areas, and in particular the extent to which any assistance provided to the steel industry is specific to that industry and the enterprises operating within it.

188. As noted in investigations undertaken in other jurisdictions, there are a number of legal instruments issued by the GOC which identify actions to be taken and areas of the economy to be supported by the State. These include the 12th and 13th Five-year Plans,

²³ WTO document WT/DS267/R.

covering 2011-2015²⁴ and 2016-2020²⁵ respectively, and the Temporary Provisions on Promoting Industrial Structure Adjustment (Decision 40)²⁶ and the Guidance Catalogue for Industrial Structure Adjustment (Guidance Catalogue)²⁷ established therein. The Policies for the Development of Iron and Steel Industry (the Steel Plan)²⁸, was issued by the National Development and Reform Commission (NDRC) in 2005, and identifies the iron and steel industry as an important basic industry and sets out policies for its development in accordance with the relevant laws and regulations. In addition, various provincial and local governments have implemented national plans and policies at their respective levels.

189. In the 12th Five-Year Plan, specific references to steel are to relocation, mergers and reorganisation, and the inclusion of some specific steel activities in “key fields of development of manufacturing.” Otherwise, the Plan makes general references to objectives, such as activities aimed at improving and promoting manufacturing (Chapter 9). References to “encouraged” industries related to the modification of the industrial guidance catalogue in the context of regional policies. The 13th Five-year Plan included specific references to steel only in relation to the need to address over-capacity, environmental objectives and international cooperation. There was no reference to “encouraged” industries.
190. In December 2005, the NDRC announced²⁹ major measures to promote the adjustment of industrial structure, including Decision 40, and the issuance of the Guiding Catalogue. As noted by the NDRC:

The Interim Regulation identifies the targets, principles, direction and priorities of the adjustment of industrial structure at present and for a future period, and it also provides the categorizing principle of the Guiding Catalogue, ie industries are categorized into three types: the encouraged, restricted and those to be eliminated. The Interim Regulation also specifies the supplementary policy measures to be provided by the Guiding Catalogue. The Guiding Catalogue is a document supplementary to the Interim Regulation, covering more than 20 industries that include agriculture, water conservancy, coal, power, transportation, information industry, iron and steel, nonferrous metals, petrochemical industry, building materials, machinery, light and textile industries, service industry, environmental and ecological protection, conservation and comprehensive use of resources, and etc.

191. The announcement goes on to state, “Regarding investment projects falling into the encouraged category, they are subject to examination and approval, authorization or filing procedures according to relevant investment regulations of the state. Financial institutions

²⁴ http://cbi.typepad.com/china_direct/2011/05/chinas-twelfth-five-new-plan-the-full-english-version.html accessed on 21 May 2017.

²⁵ <http://en.ndrc.gov.cn/newsrelease/201612/P020161207645765233498.pdf> accessed on 21 May 2017.

²⁶ <http://www.asianlii.org/cn/legis/cen/laws/tpopisa783/> accessed on 17 May 2017.

²⁷ Latest version, 2013 Amendment to the 2011 version, provided as Exhibit 2 to the GOC response to the Supplementary Questionnaire.

²⁸ <http://www.asianlii.org/cn/legis/cen/laws/pfdoiasi501/> accessed on 8 May 2017.

²⁹ http://en.ndrc.gov.cn/newsrelease/200512/t2051222_54289.html accessed on 9 May 2017.

shall grant loans to support these projects in line with credit granting principles, and these projects should also be supported by preferential taxation policies.” The restricted category covered activities which were outdated or did not improve the industrial structure.

192. Article 12 of Decision 40 states that the Guidance Catalogue “is the important basis for guiding investment directions, and for the government to administer investment projects, to formulate and enforce policies on public finance, taxation, credit, land, import and export etc.” Articles 14-16 set out the principles to be applied in determining the inclusion of industries in the “encouraged”, “restricted” and “elimination” categories.
193. Article 17 of Decision 40 provides, for “encouraged” projects, that all financial institutions shall provide credit supports in compliance with credit principles, and for the exemption from tariff and VAT payments of imports of equipment for self-use in such projects. In the case of other preferential policies on encouraged industry projects the relevant provisions of the state shall be applied.
194. Article 18 of Decision 40 provides that new investment projects under the “restricted” category shall be prohibited, with no approvals given for them, no loans, and no relevant procedures handled by administrative departments, such as land administration and a range of other processes. Existing production capacities within the restricted category may take measures within a certain period to transform or upgrade themselves, and financial institutions shall, in compliance with credit principles, continue providing supports.
195. Investments are prohibited from contributing to projects under the “eliminated” category, with financial institutions to stop granting credit support, and for all localities and departments to take “powerful” measures to eliminate such projects, including raising the electricity price. Failure to eliminate the activity on time could lead to an order to stop production or close.
196. The 2013 Amendment to the 2011 version of the Guidance Catalogue identified forty sectors of the economy covering 761 “encouraged” activities. In the case of the iron and steel industry the Amendment referred to 17 activities. The “restricted” category, covering 17 sectors, identified 20 activities in the iron and steel industry, primarily aimed at discouraging older and smaller production capabilities. The “elimination” category covered outdated production techniques and equipment (17 sectors, 288 activities) and outdated products (12 sectors, 136 products). Industries not belonging to any of the specified categories, but conforming to the relevant laws, regulations and policies of the state, belong to the “permitted” category.
197. The “encouraged” category in the Guidance Catalogue includes, under the Iron and Steel Industry heading, the activity, “Development and application of technologies for higher performance, high-quality and upgrading steel products, including but not limited to... corrosion- and wear-resistant steel.” The “restricted” category includes, “Hot-galvanised coil projects with an annual output of 300,000 tons or less.
198. On the basis of this information, MBIE concludes that production of galvanised steel coil, which is a subset of corrosion-resistant steel, is included in “encouraged” activities. With

regard to the “restricted” category, MBIE notes that Zong Cheng has reported an annual production capacity of [REDACTED] tons, while Angang announced in 2004 that it was entering into a joint venture with ThyssenKrupp to start a hot-dip galvanised steel project with an annual capacity of 400,000 tonnes. On the basis of this information, and in the absence of information on other manufacturers of galvanised steel coil exported to New Zealand in FY2016, MBIE concludes that the activities by these manufacturers do not fall within the “restricted” category.

199. Also relevant is the Catalogue for the Guidance of Foreign Investment Industries (Amended in 2015)³⁰ (the FIE Catalogue), which included in its “encouraged” category nickel stainless products under the metal products industry category, and special equipment for manufacturing galvanised steel and other metal roof production equipment under the special equipment manufacturing category. No steel products as such were listed.
200. The manufacturers of galvanised steel coil exported to New Zealand included three integrated steel companies and four companies which produce coil and sheet steel products, including galvanised products, but purchase input materials required.
201. In considering the totality of the information available, MBIE considers that the Five-Year Plans provide the overview authority and guidance for economic development, and thus the basis for particular instruments relating to aspects or areas of the economy. In the case of industrial structure, development and adjustment, this is provided by Decision 40 and the Guidance Catalogue, while the Steel Plan clarifies objectives within that sector, with the identification of particular activities and assistance being confirmed in the subsequent Decision 40. Thus, the main instruments for examination to determine specificity are Decision 40 and the Guidance Catalogue.
202. The industries included in the Guidance Catalogue cover virtually the whole economy, and if that was the level of categorisation then it would be difficult to sustain a claim that the kind of support referred to in Decision 40 was specific to those industries. However, as noted above, the Guidance Catalogue goes on to identify particular categories of activities within those industries which are to be encouraged. In the case of the iron and steel industry, the products, technologies and processes identified cover a range of activities within the industry.
203. The specificity issue is whether the provision of government support mandated by Decision 40, and provided to the “encouraged” activities, means that support to the overall industry is specific, and whether any such support, which is found to be a subsidy, is specific on the grounds that the activity is identified as being among those that are encouraged. That is, what drives specificity is the fact that there is an “encouraged” category of activities, which is narrower than all enterprises, and which constitutes “certain enterprises.” MBIE considers that the references to industries and sectors in the Catalogue does not mean that specificity attaches to those industries or sectors in their entirety, so specificity does not apply to the industry or sector as a whole. The limitation of the requirement to provide

³⁰ http://www.fdi.gov.cn/1800000121_39_4830_0_7.html accessed on 8 May 2017.

support through a range of instruments to only those activities identified as "encouraged" means that the support is limited to the group of enterprises and industries undertaking those activities, ie "certain enterprises" are those identified activities in the "encouraged" category, and specificity attaches to the listed activities.

204. The criteria for identifying activities within the "encouraged" category is set out in Decision 40, but they are not neutral, economic in nature or horizontal in application in the sense described in footnote 2 to Article 2.1(b) of the Subsidies Agreement, since they are not criteria that can bring an enterprise into eligibility which is not already eligible by reason of its activity. Thus, for the purposes of determining specificity, inclusion of an activity on the "encouraged" list explicitly limits access to a subsidy to qualifying enterprises, meaning that where any financial contribution to "encouraged" activities, mandated by Decision 40, is shown to be applicable to that activity and provides a benefit to an investigated party, then the subsidy will be specific.
205. This view reflects WTO dispute findings. In DS379, the Panel noted "... we do not consider that the sheer diversity of economic activities supported by a given subsidy is sufficient by itself to preclude that subsidy from being specific..." [Page 74] The Panel went on to undertake an analysis of the evidence on which the US DOC based its findings of specificity, including decision 40 (the Implementing Regulation) and the Catalogue described above, and stated:

In our view, the Implementing Regulation in its own words confirms the finding of the USDOC that the function of the GOC Catalogue which it cross-references is to form the basis for investment direction by the various levels of government. [Page 81]

...
...the GOC Catalogue – in particular its encouraged category – identifies the universe of types of projects singled out as a matter of national policy for encouragement and investment.... our conclusion as to the de jure specificity finding must necessarily hinge on whether the encouraged projects, taken as a whole, could reasonably be viewed as a sufficiently discrete segment of the economy as to constitute, collectively, "certain enterprises". [Page 81]

...
We thus do not consider that these documents would compel a reasonable and objective investigating authority to conclude that any subsidies granted on the basis of that category were non-specific. To the contrary, we consider that a reasonable and objective investigating authority could conclude that any subsidies granted on the basis of the "encouraged" category were to a sufficiently discrete segment of the economy as to be limited to "certain enterprises". [Page 84]

206. The Panel went on to note:

...given the USDOC's determination that the programme is a central level programme, we must analyse its specificity determination at the same level. If we were to find that the specificity determination was not supported by the central government-level planning documents, such that the programme was non-specific, then provincial and/or municipal-level evidence of specific instances of implementation of the central-level programme (even if they referred explicitly to particular industries and/or enterprises) could not override the programme's non-specificity.

207. The Appellate Body in DS379 noted that the Panel had conducted a detailed and lengthy examination of policy planning documents at the central, provincial and municipal levels that had been relied upon by the USDOC. It reviewed the examination undertaken by the Panel and noted that it was uncertain whether the Panel made the finding, challenged by China on appeal, that the entirety of the "encouraged" category constitutes "certain enterprises", nor did the Appellate Body consider it necessary to examine whether the "encouraged" category as a whole, or entries in that category, other than the particular goods examined by the US DOC, were not described in "very specific, narrowly-circumscribed terms" within the meaning of Article 2.1(a). The Appellate Body upheld the Panel's finding that China did not establish that the USDOC acted inconsistently with the obligations of the United States under Article 2.1(a) of the SCM Agreement by determining in the Off-the-Road Tires (OTR) investigation that state-owned commercial bank (SOCB) lending was specific to the tyre industry, but emphasised that the panel finding was based on an examination the totality of evidence, at all levels of government, on which the US DOC supported its specificity determination, and not simply on the Catalogue.
208. MBIE concludes that Decision 40 does not provide a basis for concluding that the "steel industry" as such is "encouraged". However, the listing of various activities under each industry sufficiently limits the scope of "encouraged" activities to bring them within the scope of "certain enterprises." MBIE considers, on the basis of the analysis outlined above, that subsidies provided in respect of goods within the "encouraged" category will be specific subsidies.
209. The corollary is that if goods are not covered by the "encouraged" category then, apart from the unavailability of financial contributions dependent on them being in the "encouraged" category, any other financial contribution will not be specific if the grounds for specificity are based on Decision 40 and the Guidance Catalogue.
210. In considering the particular programmes in section 4.4 below, MBIE has based its assessment of specificity on the conclusions above, and in particular, that the steel industry as such is not an encouraged activity, but that the evidence indicates that galvanised steel production does appear to be an encouraged activity within the broader context of corrosion- and wear-resistant steel, and may therefore benefit from credit support and exemptions from tariffs on imported equipment, as well as any other benefits that derive from "encouraged" status. Some other activities undertaken by steel companies which are galvanised steel producers may also come within this category.

4.4 Subsidy Analysis

211. The following analysis of the subsidy programmes subject to investigation considers the information available to MBIE and assesses the facts available in terms of reliability, as a basis for determining whether any activity constitutes a countervailable subsidy.

4.4.1 Policy loans to the corrosion-resistant steel industry

212. A finding of subsidisation in relation to policy loans would require that evidence is available to confirm that:

- A loan was provided
- The loan provider was a government or other public body
- The difference between the rate paid on the government loan and the amount paid on a comparable commercial loan conferred a benefit on the purchaser
- The rates paid were specific to an enterprise or industry.

Provision of loans

213. The information provided in NZ Steel’s application refers to government policies identifying the corrosion-resistant steel industry as being “encouraged” and therefore eligible for certain benefits from the central government as well as local and provincial authorities, including financing. This information was based on government instruments from 2005 and 2011. NZ Steel also referred to various reports on the Chinese steel industry and the role and level of subsidies granted through preferential loans and directed credit. NZ Steel was unable to identify Chinese mills supplying New Zealand so could not particularise its claims, including the identity of the banks that provided “policy loans” or the extent to which manufacturers of galvanised steel coil exported to New Zealand had participated in beneficial financing.
214. The GOC has asserted that there is no government programme of “policy loans” to the galvanised steel coil industry. The GOC provided evidence that the rules governing working capital loans provide that industrial policy is not a consideration for loans made to any companies, and that for short-term loans used as floating funds there is no requirement to comply with any industrial policy. In its response to the Supplementary Questionnaire, the GOC pointed out that the People’s Bank of China (PBOC) has no authority or function to make loans to any individual company.
215. The evidence from the cooperating manufacturer, Zong Cheng, is that it did not obtain loans from Chinese banks, but rather from Taiwanese banks which offered lower interest rates.
216. The Baosteel Group Annual Report for 2015, in its consolidated balance sheet, includes a reference to loans from the Central Bank totalling RMB 130.7 million and RMB 181.8 million in the 2016 Semi-annual Report (ie at June 2016). Short-term borrowing of RMB 27,111.0 million was also identified, made up mainly of unsecured and non-guaranteed loans. Details of interest rates applicable to the short-term borrowings were provided. In the 2016 Semi-annual Report, the level of borrowing from the Central Bank totalled RMB 181.8 million, and short-term loans totalled RMB 33,610.3 million.
217. Findings by the Australian authorities, the European Commission and the US DOC indicate the likelihood of subsidies, but in the absence of information from the GOC those investigating authorities relied on best information available to determine the existence and extent of any subsidisation.
218. There is no doubt that manufacturers of galvanised steel exported to New Zealand obtained bank loans to finance their operations, and there is some evidence to suggest that some manufacturers may have obtained loans from “policy banks” (but not the PBOC).

A government or other public body

219. The GOC has stated that the SOCBs in China are not “public bodies”, because they do not possess, exercise, or are vested with governmental authority, and asserts that government ownership *per se* does not establish that they are a “public body”.
220. The banking sector in China has shown significant development over the last 20-30 years, with SOCBs and “policy banks” playing important roles.
221. As outlined on the PBOC website,³¹ with the improvement of the socialist market economic system, the PBOC, as a central bank, will play an even more important role in China's macroeconomic management. The amended Law of the People's Republic of China on the People's Bank of China, adopted in December 2003, provides that the PBOC performs a range of major functions including a state-mandated role in setting and implementing policies and regulations relating to the financial sector, including the establishment and modification of benchmark interest rates, and engaging in financial business operations in line with relevant rules.
222. In the 1980s four very large SOCBs were established – the Agricultural Bank of China (ABC), the Bank of China (BoC), the China Construction Bank (CCB), and the Industrial and Commercial Bank of China (ICBC), to grant credit to key sectors. In 1994, policy lending banks (“policy banks”) were established in order to take over projects for development purposes from SOCBs. These banks were the Agricultural Development Bank of China, the Export-Import Bank of China, and the China Development Bank (CDB). In 1995 a new strengthened charter for the PBOC was introduced, where its three main responsibilities were monetary stability, banking supervision and oversight of the payments system. Responsibilities for monetary policy and banking supervision were separated with the creation of the China Banking Regulatory Commission (CBRC).³²
223. The website of the Export-Import Bank of China notes that it is a state bank solely owned by the Chinese government and under the direct leadership of the State Council. The Bank's main mandates are to facilitate the export and import of Chinese mechanical and electronic products, complete sets of equipment and new- and high-tech products, assist Chinese companies with comparative advantages in their offshore project contracting and outbound investment, and promote international economic cooperation and trade. The Bank's business scope includes government concessional loans to support other developing countries with concessional funding. This does not suggest that the Export-Import Bank of China has any role in providing loans relating to the production of galvanised steel coil which is exported to New Zealand.
224. The CDB website states that the China Development Bank was founded in 1994 as a policy financial institution under the direct leadership of the State Council. It was incorporated as

³¹ <http://www.pbc.gov.cn/english/130712/index.html> accessed on 8 May 2017.

³² Derived from Alicia Garcia-Herrero, Sergio Gavilay and Daniel Santabarbara, “China's Banking Reform: An Assessment of its Evolution and Possible Impact”, *CESifo Economic Studies*, Vol. 52, 2/2006, pp 304-363.

China Development Bank Corporation in December 2008, and officially defined by the State Council as a development finance institution in March 2015. The major shareholders in the CDB are the Ministry of Finance and Central Huijin Investment Ltd (an organisation by which the Chinese government can act as a shareholder for the "big four" state owned banks), and Buttonwood Investment Holding Company Ltd (100 percent owned by the State Administration of Foreign Exchange). The CDB notes that it provides "medium- to long-term financing facilities that serve China's major long-term economic and social development strategies," and "It aligns its business focus with China's major medium- and long-term national economic development strategies and allocates its financing resources to [inter alia] support major national projects in infrastructure, basic industries, pillar industries, and strategic emerging sectors; help promote economic structural adjustments, new urbanisation, coordinated regional development and industrial upgrade and transformation."

225. The Agriculture Development Bank of China (ADBC) was established in 1994 to take over the policy lending function from the Agricultural Bank of China. The ADBC is a State-owned agricultural policy bank under the direct administration of the State Council. The bank funds itself mainly through borrowing from the central bank, and uses the fund to support the development of the agriculture industry and the rural economy. Although the ADBC appears to operate primarily in the agricultural sector, its business does include handling settlement for policy-oriented corporate and institutional customers maintaining accounts with ADBC, and a range of international settlement and foreign exchange activities.
226. The SOCBs are now commercial banks concentrating on corporate lending. Central Huijin Investment Ltd, a government entity, is a major shareholder in each of these banks. In the BoC Annual Report for 2016 it is noted that "Huijin exercises its rights and fulfils its obligations as an investor on behalf of the State, in accordance with applicable laws aimed at preserving and enhancing the value of state-owned financial assets. Huijin neither engages in other business activities nor intervenes in the daily operation of the key state-owned financial institutions of which it is the controlling shareholder."
227. The ABC website³³ notes that since the late 1970s it has evolved from a state-owned specialised bank to a wholly state-owned commercial bank and subsequently a state-controlled commercial bank. The ABC was restructured into a joint stock limited liability company in January 2009. In July 2010, the ABC was listed on both the Shanghai Stock Exchange and the Hong Kong Stock Exchange, which marked the completion of its transformation into a public shareholding commercial bank. The ABC Annual Report for 2016 notes that in pursuit of its goals for "green" credit, customers in industries of iron and steel as well as coal, were set "differentiated credit limits in the credit operation system according to classification results, so as to drive more credit resources to be provided to those customers with competitive advantages in the industry. As for those 11 industries with credit limit management such as the iron and steel industry and the coal industry, the

³³ <http://www.abchina.com/en/AboutUs/AboutAabc/Overview/> accessed on 8 May 2017.

Bank drew up a customer list to accelerate cutting of their credit exposure.” As a result there was a significant reduction in lending to industries with high energy consumption, high pollution or overcapacity, including the iron and steel industry.

228. The BoC website³⁴ records that in 1994 the BoC was transformed into a wholly state-owned commercial bank. In August 2004, Bank of China Limited was incorporated and the BoC was listed on the Hong Kong Stock Exchange and the Shanghai Stock Exchange in June and July 2006 respectively. The Bank’s core business is commercial banking, including corporate banking, personal banking and financial markets services.
229. The CCB website³⁵ notes that China Construction Bank Corporation, headquartered in Beijing, is a leading large-scale joint stock commercial bank in China. Its predecessor China Construction Bank was established in October 1954. CCB was listed on Hong Kong Stock Exchange in October 2005 and the Shanghai Stock Exchange in September 2007.
230. The ICBC website³⁶ states that the Industrial and Commercial Bank of China was established on 1 January 1984 and on 28 October 2005 was wholly restructured to a joint-stock limited company. On 27 October 2006, the ICBC was successfully listed on both Shanghai Stock Exchange and Stock Exchange of Hong Kong Limited.
231. Information from websites and financial reports for these SOCBs refer to their support of government policies, e.g. in its 2016 Annual Report, the CCB noted, “The Group supported the development of real economy through various credit and non-credit financing channels including loans, wealth management, debt securities, leasing and trust, with the balance of infrastructure loans amounting to RMB2.90 trillion. In response to the supply-side structural reform, we continued to reduce credit to steel, cement, electrolytic aluminium and other industries with excess capacity, pioneered to provide market-oriented debt-to-equity swap service as governed by relevant laws, and granted more loans to small and micro enterprises as well as agriculture-related areas.”
232. There is a range of other commercial banks in China which have varying degrees of government ownership, but are subject to the rules and disciplines set by the government. These rules and guidelines include the deregulation of the sector overseen by the PBOC, the compliance requirements of listed company rules in China and Hong Kong, and the supervision of securities regulatory authorities.
233. The US DOC 2016 investigation into corrosion-resistant steel from China considered that SOCBs are “government authorities” and that policy considerations continue to be a significant factor in lending decisions. In *Corrosion-Resistant Steel* the US DOC rejected the GOC claims that the enactment of new Capital Rules in 2013 had made substantial changes to China’s commercial banking sector, including the elimination of industrial policies as a consideration for the provision of loans, by noting that there was a distinction between *de*

³⁴ <http://www.boc.cn/en/> accessed on 8 May 2017.

³⁵ <http://www.ccb.com/en/newinvestor/overview.html> accessed on 8 May 2017.

³⁶ <http://www.icbc.com.cn/ICBC/EN/AboutUs/BriefIntroduction/> accessed on 8 May 2017.

jure reforms of China's banking sector, and *de facto* banking practices. The US DOC suggested that insufficient time had elapsed to see clearly the definitive *de facto* results of the incremental reforms and regulatory initiatives, and also noted that the new Capital Rules addressed only capital adequacy and loan management standards, and not the use of policy considerations or the role of government in the financial system. The US DOC saw no reason to contradict findings from earlier cases that China's banking sector did not operate on a commercial basis and was subject to significant distortions, primarily arising out of the continued dominant role of the government in the financial system and the government's use of banks to effectuate policy objectives. The US DOC considered that Article 25 of the Steel Plan specifically encourages financial institutions to comply with development policies for the iron and steel industry.

234. The US findings reflect the conclusions reached by the WTO Appellate Body in *United States — Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (DS379), when it noted that the US DOC analysis³⁷ of SOCBs was broader than that undertaken in relation to SOEs providing inputs when it had relied on ownership and control. In considering the position of SOCBs the US DOC had considered other factors, including relevant provisions of applicable laws, and statements by SOCBs, and other evidence. On this basis, the Appellate Body felt able to conclude that the US DOC's public body determination in respect of SOCBs was supported by evidence on the record that the SOCBs exercise governmental functions on behalf of the Chinese Government.³⁸ Note, that the US DOC investigations which were the subject of DS379 took place in 2007-2008, and this does not mean that Chinese SOCBs should always be treated as public bodies, but rather that the US DOC determination was properly based on an examination of a range of factors, not simply ownership, which led it to conclude that SOCBs were meaningfully controlled by the government in the exercise of their functions.
235. The Australian authorities, in Investigation 193, looked at capital injections into a state-owned producer of galvanised steel, and concluded that there was a countervailable subsidy, based on best information available.
236. In its submission of 6 April 2017, NZ Steel refers to findings published in the Official Journal of the European Union in Regulation (EU) No. 215/2013 of 11 March 2013, which sets out findings in an investigation into certain organic coated steel products. The findings were that both the GOC and exporting producers had failed to provide information on the lending policies of Chinese banks. In view of this lack of cooperation and the totality of the facts available, it was deemed appropriate to consider that all firms in China were receiving concessional treatment on loans.

³⁷ The Appellate Body noted that the five factors that the USDOC had examined in the past were: (i) government ownership; (ii) government presence on the board of directors; (iii) government control over activities; (iv) pursuit of governmental policies or interests; and (v) whether the entity was created by statute.

³⁸ WTO document WT/DS379/AB/R, pp 134-136.

237. The NDRC's Steel Plan was issued in July 2005. The development policies for the iron and steel industries, as set out in the preamble to the Order, note the importance of the iron and steel industry to the national economy, and that the focus of development will be put on technical upgrading and structural adjustment, with the plan addressing these elements along with the development of a recycling economy, lowered consumption of raw materials and energy, attention to environmental protection, increased competitive capacity for enterprises, and industrial upgrading. The objective is to develop the iron and steel industry to be an industry with internationally competitive capacity that can satisfy the needs of the national economy and social development in terms of quantity, quality and varieties.
238. Article 16 of the Steel Plan refers to support to be provided through taxation, interest subsidies and scientific research funds, to major iron and steel projects based on domestic production of newly-developed equipment. Article 24 provides that where a project does not comply with the development policies, the department of land and resources will not handle the formalities for land use, financial institutions will not provide any loan or credit support, and customs will not handle the formalities for tax refunds for imported products. Article 25 of the Order states that, "To grant mid- and long-term loans for the fixed-asset investment to the projects of iron smelting, steel smelting and steel rolling, a financial institution shall comply with the development policies for the iron and steel industry, and strengthen their risk management. For any fix-asset investment loan granted to any project of iron smelting, steel smelting and steel rolling with newly increased production capacity, the relevant reply, verification or archival documents as issued by the NDRC shall be required to be provided." As noted above, the development policies of the GOC are reflected in the documents discussed in section 4.4.3 above, indicating that these are the policies referred to in the Steel Plan, including the references to financial support to be provided to "encouraged" activities.
239. In MBIE's view, State ownership of banks in China, in terms of shareholding, can be regarded as the default position. Similarly, directors and senior management positions will often be filled by appointees who are members of the Communist Party of China (CPC). However, consistent with Appellate Body findings, ownership and CPC memberships, without other evidence, cannot lead to a conclusion that such banks are "public bodies".
240. MBIE accepts that the PBOC does not provide loans to individual companies, but has assessed the position of the PBOC and the "policy banks" – the ADCB, the Export-Import Bank of China and the CDB. On the basis of an analysis of their role and functions, including the considerations outlined above in section 4.3.2, MBIE concludes that the PBOC, the ADCB, the Export-Import Bank of China, and the CDB are "public bodies."
241. The evidence suggesting that steel companies may have received policy loans arises from the reference in the Baosteel Annual Report to loans from the Central Bank. Since this cannot, according to the GOC, be the PBOC, then in the absence of information from Baoshan in response to the Supplementary Questionnaire provided to it, MBIE assumes that it is a loan from one of those financial institutions identified as a "policy bank."

242. With regard to the large SOCBs operating in China's financial system, MBIE considers that they may have some of the characteristics of a "public body", eg State ownership, and their activities are consistent with general government policies. However, this does not, of itself, provide evidence that an entity is a "public body", since private banks also deploy their policies in line with government planning. The government policies applying to the sectors concerned, in this context, are reflected in the Capital Rules for Commercial Banks, and the autonomous business governance of commercial banks in China. This approach is consistent with the Huijin statement of its role as shareholder referred to above. The decision of the Third Plenum of the 18th Central Committee of the CPC to assign the market as having the decisive role in allocating resources, and the policies set out in Decision 40 regarding the focus of support for specified activities provide indicators of government policy objectives. Taken all together, government policies and objectives in China do not provide positive confirmation that SOCBs are exercising governmental authority or functions, or are subject to meaningful control by the government, rather than acting in accordance with government policy.
243. Accordingly, while MBIE is satisfied that the PBOC and "policy banks" are public bodies, it is not established that other commercial banks in China, including SOCBs are "public bodies" for the purposes of Article 1.1(a)(1) of the Subsidies Agreement. Also, there is no positive evidence linking any particular commercial bank with concessional loans provided to any of the manufacturers of galvanised steel coil exported to New Zealand.
244. MBIE also considered whether Article 1.1(a)(1)(iv) of the Subsidies Agreement comes into play if commercial banks in China are not regarded as "public bodies", but may be entrusted or directed to provide loans to manufacturers of galvanised steel coil exported to New Zealand. MBIE does not consider that there is positive evidence to support such a contention.

Provision of a benefit

245. On the basis that loans may have been provided by "policy banks" to manufacturers of subject goods exported to New Zealand, and that the providers of the loans are public bodies, the level of benefit to be calculated in accordance with section 7(2)(b) of the Act is the extent to which the amount that the recipient of the loan pays under the loan is less than the amount the recipient would pay under a comparable commercial loan that the recipient could obtain on the market. In such a case the benefit to the recipient shall be deemed to be the difference between those amounts.
246. The information provided by Zong Cheng suggests that interest rates offered by Chinese banks may not be concessional when compared with rates available outside China.
247. In the EU investigation referred to above, the benefit to the exporting producers was calculated by taking the interest rate differential between the appropriate premium on

bonds issued by firms based on a “non-investment grade”³⁹ bonds (BB at Bloomberg), and comparing it with the standard lending rate of the PBOC. This differential, expressed as a percentage was multiplied by the outstanding amount of the loan, and then allocated over the total turnover of the cooperating exporting producers. The subsidy rates established through this process were 0.25% and 0.89% for two co-operating companies, with a weighted average rate of 0.58% for cooperating companies not included in the sample. The rate for non-cooperating companies was set at the highest subsidy rate for an entity related to one of the sampled cooperating companies, at 0.97%.

248. The US DOC used a range of benchmarks depending on the nature of the loan, using interest rates in certain middle-income countries, adjusted for inflation, for short-term RMB-denominated loans; adjusted BB-rated bond rates for long-term RMB-denominated loans; and the London Interbank Offering rate (LIBOR) plus the average spread between LIBOR and the one-year corporate bond rate for companies with a BB rating. On the basis of this approach, the level of countervailable subsidy calculated for YPC was 0.76%.
249. MBIE notes from the Baosteel Group Annual report, and from published reports and commentaries, that in 2013, Baosteel sold USD 500 million in 2018 bonds with a 3.75% coupon rate, suggesting a credit rating in the lower to upper medium grade for investment-grade bonds. MBIE also notes that the PBOC loan benchmark interest rate was reduced from 5.1% to 4.85% on 27 June 2015, to 4.6% on 25 August 2015, and to 4.35% on 23 October 2015.
250. The Baosteel loan of RMB 130.7 million from a Central Bank was apparently paid off at the end of the third quarter of 2016 (according to the 2016 Q3 public report of Baosteel, provided as Exhibit 1 in the GOC response to the Supplementary Questionnaire). In view of Baosteel’s credit rating the benchmarks suggested by the EC and US DOC investigations would not be appropriate. For illustrative purposes, MBIE has assumed that no interest was paid, and compared that with the PBOC loan benchmark rate. The resulting level of benefit is 0.005%. This level is too low to be meaningful and MBIE does not consider it to be a basis to include it in any overall level of subsidisation. MBIE notes that the EC considers any level of subsidisation below 0.01% to be negligible, and does not count it in any total levels of subsidisation.

Specificity

251. In its investigation into corrosion-resistant steel referred to above the US DOC noted that it finds that policy lending is specific to an industry when the industry is listed in certain GOC policies and catalogues (such as the Steel Plan), that direct the use of loans to promote targeted industries, ie Article 25 of the Steel Plan specifically encouraged financial institutions to comply with development policies for the iron and steel industry. The

³⁹ A BB rating usually indicates a speculative investment where the obligor is less vulnerable in the near term than other lower-rated obligors, but faces major ongoing uncertainties and exposure to adverse business, financial, or economic conditions which could lead to the obligor’s inadequate capacity to meet its financial commitments.

Australian authorities have also cited Article 25 to support their finding that it reflects a direction by the GOC to the banks.

252. The EC also referred to the steel industry as being in the “encouraged” category in Decision No. 40, an Order from the State Council, which classifies industrial sectors into “Encouraged, Restrictive and Eliminated” projects. The EC notes that industries listed as “Encouraged” represent only a portion of the Chinese economy, and only certain activities within these sectors are given “encouraged” status. Under Decision No. 40, “encouraged investment projects” are to benefit from specific privileges and incentives, *inter alia*, from financial support.
253. For the reasons outlined in section 4.3.3 above, MBIE does not consider that the steel industry, as such, is in the “encouraged” category of Decision 40, but does consider that galvanised steel coil is included in that category through the Guidance Catalogue’s reference to corrosion-resistant steel.

Conclusions

254. MBIE considers that information provided by the GOC, the responses from the cooperating manufacturer, and information from published financial reports of steel companies are the best information available.
255. MBIE has concluded that assistance provided to a manufacturer of galvanised steel coil would be specific because it comes under the “encouraged” category, and may therefore receive credit support. However, the available information indicates that any benefit to exporters of galvanised steel coil to New Zealand is extremely negligible.
256. On the basis of the analysis outlined above, the conclusion is that there is no financial contribution provided by way of “policy loans” to manufacturers of galvanised steel coil exported to New Zealand which provides any benefit.
257. MBIE therefore concludes that there is no countervailable subsidy in respect to government provision of “policy loans”.

4.4.2 Provision of land use rights for less than adequate remuneration

258. A finding of subsidisation in relation to the provision of land-use rights would require that evidence is available to confirm that:
- Producers of galvanised steel coil paid for or received allocated land-use rights
 - The land-use rights were provided by a government or other public body
 - The land-use rights were provided for less than adequate remuneration
 - The prices paid were specific to an enterprise or industry.

Provision of land-use rights

259. The application states that all land in China is owned by the State and land-use rights are transferred to companies for little or no cost, but provides no further evidence other than reference to the US DOC findings. US DOC findings appear to be based on similar assumptions arising from a lack of an expected response to a questionnaire by the GOC.

260. In its initial questionnaire response in the current case, the GOC claims that there is no programme covering the provision of land-use rights, and there is no evidence that the GOC “provides lease agreement and then transfers land-use rights to companies for little or no cost.”
261. Although private ownership of land is not possible in China, under the Constitution’s Amendment Act in 1988 land-use rights became divisible from land ownership, thus making it possible for land-use rights to be privatised. In 1998 the Land Administration Law was promulgated and since then all land use rights have been granted in return for fees, with exceptions relating to governmental entities and military entities; municipal infrastructure and social welfare facilities; energy, transportation, and irrigation facilities with government support; and other entities explicitly set out by laws and regulations.
262. In 2001, the Ministry of Land Resources issued a Catalogue of Allocation of Land (MOLAR Decree 9), which set out the categories for allocated land, but land for profit driven industrial and commercial use was not included in those categories. The Regulation on the Implementation of the Land Administration Law of the People’s Republic of China, and the Provisions on the Assignment of State-owned Construction Land Use Right through Bid, Invitation, Auction, and Quotation, provide that with respect to land for industry, commerce, tourism, entertainment, commercial housing or other business operations, or on which there are two or more intended land users, the assignment shall be conducted through bid invitation, auction or quotation.
263. The questionnaire response from Zong Cheng provided evidence that the price it paid for land-use rights was based on market rates. The evidence was of a price paid for land-use rights by a moulding company in the same locality as Zong Cheng. The price was assessed on an independent basis because it involved a related-party transaction, and was similar to, but not exactly the same as, the price that Zong Cheng indicated that it paid for land-use rights.
264. The Baosteel Group Annual Report for 2015, in its consolidated balance sheet, includes a reference to the prepayment for land-use right of Zhanjiang Steel, while the 2016 Annual Report for Angang identifies the provision for land-use rights under intangible assets.

A government or other public body

265. In China land is owned by the State or by peasants’ collectives, and its use is subject to legislation and regulations, with municipal and county governments responsible for allocating land-use rights in accordance with the requirements of the legislation and regulations.

Provision of a benefit

266. The NZ Steel application notes that news reports indicate that land rights are provided for “as little as US\$ 0.02 per square foot.” This claim was based on the Wiley Rein LLP Report referred to in section 4.2.1 above, which focused on the use of land-use rights as collateral for financing, as well as on the differential between payments made and a market-determined value.

267. The information provided by Zong Cheng indicates that prices paid in its locality were around RMB 89/m², which is equivalent to around USD 1.28/ft². Assuming the payment covered the 50-year period for industrial land-use, a straight-line amortisation of that amount is equivalent to USD 1.78/m² or USD 0.026/ft².
268. The information provided by the GOC is that there is no legislative basis for concluding that the provision of land-use rights at less than adequate remuneration is a national or provincial programme.
269. The US DOC investigation into corrosion-resistant steel referred to a US set of questions to the GOC through the WTO subsidy notification process⁴⁰ which included reference to a Jiangsu Province plan for the iron and steel industry for 2009-2011. This plan identifies land policies to promote the plan's objectives, which include transformation and improvement of the steel used in, *inter alia*, anti-corrosion. The US DOC considered that the GOC had not adequately responded to requests for information so relied on facts available. The US DOC calculated a level of subsidy for YFC at 0.36%, based on the benchmark of land values in Thailand from an earlier investigation, having concluded that Chinese land prices are "distorted by the significant government role in the market" and that world prices were not appropriate, since not available to Chinese purchasers (it is not clear how "world prices" for land could be determined).
270. A previous Australian investigation concluded that a programme for land use tax deductions for FIEs was not a countervailable subsidy.
271. The EC investigation reviewed specific land-use right transactions, and concluded that since not all of them were subject to bidding or auction processes, the situation in China was unclear and non-transparent, and the prices were often arbitrarily set by the authorities. The EC claimed that these prices were set according to the Urban Land Evaluation System which instructed the authorities, among other criteria, to consider also industrial policy when setting the price of industrial land. The EU used industrial land prices in Taiwan as a benchmark, and established rates of subsidy as 0.73% as the weighted average for cooperating exporters and 1.36% for non-cooperating companies.
272. One of the consequences of the ongoing socio-economic reforms and developments being undertaken in China is the move to achieve convergence of Chinese Accounting Standards (CAS) with International Financial Reporting Standards (IFRS). One of the issues in addressing comparability of accounting systems is the impact of China's unique legal framework for land ownership. As a substantial asset, land has a very different legal status in China to the equivalent asset in most Western societies, and this poses a challenge when seeking to compare financial reports of Chinese firms with those of companies outside China.⁴¹

⁴⁰ WTO document G/SCM/Q2/CHN/51 of 21 October 2014.

⁴¹ See Zhang, Y. and Andrew, J., Land in China: Re-considering comparability in financial reporting, *Australasian Accounting, Business and Finance Journal*, 4(1), 2010, 53-75 at <http://ro.uow.edu.au/aabfj/vol4/iss1/4/>.

273. This also raises a question as to the comparability of land costs between China and any other economy. In MBIE's view it is difficult to realistically compare the price paid for land-use rights in China with the price of land in another jurisdiction, when what is being provided or purchased is different. Rather, the proper approach would be a comparison between the charges for land-use rights for the Chinese producers of galvanised coil exported to New Zealand and other producers or industries in China, in order to determine if the charges to Chinese galvanised steel coil producers represent less than adequate remuneration. When the EC undertook this analysis, it is not clear if the land use transactions rejected by the EC were influenced by the fact that there was one party only. If so, presumably, no bidding or auction process would be required (the price would be set by quotation) and the price paid for the land-use rights could well be lower than if there had been multiple parties bidding for the rights.
274. The information available is that the price paid by a producer of galvanised steel coil was similar to the price paid by another business in the same locality in a different business activity. The EC investigation also established that a number of the transactions it investigated were based on bidding or auction processes, but questioned the validity of prices which appear to be based on quotation by the local authority, which is also envisaged in the governing legislation.

Specificity

275. The GOC has pointed out that it does not set or direct the land-use right price specific to any industry or any region. The transfer of land-use rights in China is based on market principles, and the price is typically determined by public bidding, public auction, independent appraisal and negotiations, according to Article 29 of the Regulation on the Implementation of the Land Administration Law.
276. The other jurisdictions which have undertaken investigations into similar products referred to the various government instruments identified in previous sections as providing a basis for concluding that access to land is by law limited to companies respecting the industrial policies set by the State.
277. As noted in section 4.3.3 above, MBIE has concluded that the relevant industrial policies set by the State do not mean that the steel industry as such is an "encouraged" industry, nor is it clear that land-use rights provided to steel companies are somehow differentiated between those usages which might fall within "encouraged" status, such as corrosion-resistant steel, and those that do not.

Conclusions

278. MBIE considers that information provided by the GOC and the responses from the cooperating manufacturer are the best information available.
279. Accordingly, the conclusion is that there is no financial contribution provided by way of the provision of land-use rights for less than adequate remuneration.
280. MBIE therefore concludes that there is no countervailable subsidy in respect to government provision of land-use rights.

4.4.3 Provision of input materials at less than adequate remuneration

281. A finding of subsidisation in relation to the price of inputs would require that evidence is available to confirm that

- A producer purchased the designated inputs
- The input provider was a government or other public body
- The prices paid were for less than adequate remuneration and conferred a benefit on the purchaser
- The prices paid were specific to an enterprise or industry.

Purchase of input materials

282. In its application NZ Steel referred to purchases of hot-rolled coil (HRC), cold-rolled coil, zinc and primary aluminium as input materials. MBIE has confirmed that the subject goods do not include aluminium-coated steel, so has excluded the claim relating to the provision of primary aluminium at less than adequate remuneration.

283. In its questionnaire response, Zong Cheng confirmed that it purchases hot rolled coil, cold-rolled coil and zinc ingots from a range of suppliers.

284. Angang, Baoshan and Shougang are integrated steel producers, so do not purchase inputs from other suppliers. In its 2016 Annual Report, Angang noted that its pricing principles for billets in connected party transactions were to apply market prices. Baosteel's 2015 Annual report included similar provisions relating to the sales of products between related parties.

A government or other public body

285. NZ Steel's application claimed that mills receive a financial contribution from a public body in the form of provision of HRC, cold-rolled coil, zinc and primary aluminium at less than adequate remuneration. NZ Steel understands that these materials are predominantly produced in state invested enterprises (SIEs) in China, which are public bodies.

286. In its submission of 6 April 2017, NZ Steel provided information to support claims that providers of input materials were primarily government-owned, and also provided information from an EU investigation concerning the calculation of the amount of the subsidy. In the submission, NZ Steel also provided information supporting claims that providers of input materials are public bodies, citing the main functions of the SASAC and regulations on the supervision and management of state-owned assets, and investigations by authorities in Canada, Australia, and the EU, which concluded that steel SOEs were public bodies.

287. The information provided by the GOC emphasises that input producers in China are independent business entities operating on a commercial basis, in accordance with the Company Law of the People's Republic of China.

288. The GOC noted that economic structure differs from country to country. China has transitioned from a planned economy to a market economy and this process has included the reform of state-owned enterprises. As a result state-owned enterprises operate in the same manner as other market players in response to market forces. Therefore, input

producers in China are independent business entities, operating on a commercial basis, making decisions independently with respect to their day-to-day commercial operations, including production, contract signing, price setting and commercial negotiations, without any interference or influence from any government agencies.

289. Input producers are bound by and comply with the Company Law of the People's Republic of China. Key provisions of this law include Article 36, which prescribes that the shareholders' meeting of a limited liability company is the authority of the company and shall exercise its powers according to the Law; Article 37 which prescribes that the shareholders' meeting shall determine all the significant operational issues and plans for the company; Article 46 which prescribes that the board of directors shall be responsible for the shareholders' meeting and shall implement the resolutions made at the shareholders' meetings as well as manage daily business operations; Article 49 which prescribes that the manager shall be responsible for the board of directors and oversee the daily management of the company; and Article 147 which prescribes that the directors, supervisors and senior managers shall comply with the laws, administrative regulations, and bylaw, and shall bear the obligations of fidelity and diligence to the company. The articles of association of a company establish the corporate governance structure and are formulated by the shareholders in compliance with the Company Law.
290. The GOC further stresses that the prices of inputs function in accordance with market dynamics. The HRC, cold-rolled steel and zinc markets in China operate under market conditions, and the GOC does not interfere in or influence pricing in these markets.
291. The information provided by Zong Cheng indicated that it purchased hot-rolled coil, cold-rolled coil and zinc ingots for use in the manufacture of galvanised steel coil. Lists of suppliers and details of transactions for all three products were provided. Virtually all of the suppliers were identified as government-owned companies. Zong Cheng claimed that the purchase price of the raw materials reflected the market price of the goods and no reductions were received. An analysis of the prices paid indicated that they were not inconsistent with prices available in the Chinese market.
292. In its Issues and Decision Memorandum for the Final Determination on certain corrosion-resistant steel from China, the US DOC continued to find that companies producing hot-rolled steel, cold-rolled steel, zinc, and primary aluminium purchased by YPC were "authorities" within the meaning of the US legislation. The US DOC also noted that the GOC had failed to cooperate to the best of its ability in responding to the US DOC's requests for information, so remaining producers were considered to be "authorities" on the basis of adverse facts available. In addition to failing to provide information on specific input suppliers, the GOC had failed to respond to explicit requests for information on the extent that owners, managers, or directors of a producer were officials of the Chinese Communist Party, or were otherwise influenced by state-owned entities.
293. The US DOC found that State-owned enterprises (SOEs) in China possess, exercise, or are vested with governmental authority. The US DOC claims that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist

market economy, allocating resources, and maintaining the predominant role of the state sector.

294. The Australian Anti-Dumping Review Panel (ADRP) addressed an appeal by the GOC against the Australian AD Commission findings in Investigation 193 that SIEs that produced and supplied HRC to producers of coated steel in China were public bodies. The ADRP noted the indicia for determining whether entities are public bodies which the Australian authorities had drawn from the WTO Appellate Body in its DS379 report, and which were set out in an Australian court decision.⁴² The Australian authority relied on this analysis in its Investigations 203 and 177 relating to hollow structural sections of steel, and applied these findings in Investigation 193. The ADRP reviewed the analysis undertaken by the Australian authorities, including the review undertaken by the Trade Measures Review Officer of Investigation 177.
295. The ADRP noted the conclusions reached by the Australian authority with regard to the exercise of governmental functions by an entity, and suggested that it conflated the purpose of acting in accordance with government policy and carrying out government functions. The ADRP stated that compliance with government policy does not of itself evidence that an entity possesses, exercises or is vested with government authority, which was the over-riding test established by the WTO Appellate Body. With regard to the evidence that a government exercises meaningful control over an entity and its conduct, the ADRP noted that the material relied upon by the Australian authorities did demonstrate that the GOC regulated the iron and steel industry and that there was a degree of control over the participants in the industry, but the material did not show that the control amounted to meaningful control in the sense intended by the WTO Appellate Body. The ADRP did not consider the control exercised by the GOC over SIEs in the iron and steel industry was such that those SIEs were in effect exercising government authority. The overall conclusion of the ADRP was that the decisions made by the Attorney-General with respect to countervailing duties should be revoked.
296. MBIE notes that in a subsequent Australian case (Rebar and Rod in Coils, Investigation 322⁴³) the Australian ADC noted that WTO dispute settlement findings made subsequent to the ADRP conclusions, clarified “meaningful control” to the extent that Chinese suppliers of inputs could be considered to be “public bodies”.
297. However, MBIE does not agree with this interpretation of the WTO Appellate Body findings in those cases. In particular, the Appellate Body considered that in *US – Carbon Steel (India)* the Panel erred in its interpretation of Article 1.1(a)(1) by construing the term “public body” to mean any entity that is “meaningfully controlled” by a government, and

⁴² *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870.

⁴³ Final Report 322 – *Steel Reinforcing Bar – China* page 74, at <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-322.aspx>

the suggestion that a government's ability to control an entity was determinative for purposes of establishing whether that entity constitutes a public body.⁴⁴

298. In Investigation 322, the Australian ADC also considered that an integrated steel mill that was a public body providing billet (a production input for HRC and CRC and other steel products) to itself was a benefit from a public body. This was on the basis that inputs (coking coal) into billet production were sourced from an SIE at less than adequate remuneration, and the benefit extended to the production of the billet, so the internal supply of the billet is a benefit. MBIE considers that this leads to a risk of double counting, particularly if the internal accounting provision for billet costs was treated by an investigating authority as being at less than adequate remuneration. This risk also applies in relation to coil produced from the billet which is also an input into galvanised coil. For these reasons MBIE would not be comfortable pursuing this approach.
299. In the report of its investigation into certain organic coated steel products from China, the EC considered the provision of HRC and CRC for less than adequate remuneration. The EC noted that in view of the limited information provided by the GOC, publicly available factual information from similar proceedings conducted by other investigating authorities as well as other publicly available information, provided the basis for the EC's consideration. The EC reviewed the report of the WTO Appellate Body in DS379, and noted the definition of a public body as an entity that "possesses, exercises or is vested with governmental authority" and are also characterised by the "performance of governmental functions" which would "ordinarily be considered part of the governmental practice in the legal order of the relevant Member." The EC noted the role of the GOC in the management of the economy, including the operation of various 5-year plans. The EC report also identified the Steel Plan, and the right of the state to intervene in the purchase of raw materials (Article 30 of the Steel Plan),⁴⁵ and the leading role given to the biggest state-owned steel producers, including Angang and Baoshan.
300. The EC considered that SOEs producing HRC and cold-rolled coil often performed government functions described in the sectoral plans for the iron and steel industry, such that it was a fact that the GOC is using the iron and steel industry as a prolonged arm of the state in order to achieve goals and targets set in those plans. Governmental control through ownership, administrative regulation and involvement of the SASAC, the composition of boards of directors, and the plans governing the iron and steel industry, indicated, to the EC, that the SOEs possess, exercise or are vested with governmental authority. The EC also concluded that any SOE in which the government is the majority or

⁴⁴ In fact, the Panel did not say this, it concluded that "...in certain circumstances, a body may be found to be public in nature when it is subject to "meaningful control" by the government. We further recall that government shareholding, when combined with other factors, may well be indicative of the government's "meaningful control" of an entity." WT/DS436/R, at paragraph 7.89, emphasis added.

⁴⁵ In fact, Article 30 refers to cooperation in accessing offshore sources of raw materials, and the restriction of preliminary processed products with high energy-consumption and serious pollution.

the largest shareholder is a public body, while all private bodies in the steel sector are entrusted or directed by the State and behave in the same way as public bodies.

301. In reaching its conclusions on whether suppliers of HRC, CRC and zinc are “public bodies”, MBIE has considered the points made by the GOC, the evidence from the cooperating manufacturer, as well as the views of the ADRP, and the analyses undertaken by the US and EU authorities. MBIE has analysed the status of input suppliers and their role and functions on the basis of the considerations outlined in section 4.3.2 above, and in the context of the alleged subsidy programme under consideration, which is the provision of raw materials at less than adequate remuneration.
302. MBIE is satisfied that the information available indicates that while suppliers of input materials are, in the main, state-owned enterprises, they are not “public bodies” in the context of Article 1.1(a) of the Subsidies Agreement. This view reflects, in particular, the arguments of the ADRP, which reviewed the position in light of WTO jurisprudence to date (see section 4.3.2 above). The ADRP noted that compliance with government policy does not of itself evidence that an entity possesses, exercises or is vested with government authority, and there was no evidence that SASAC had delegated its authority to SIEs to control participants in the iron and steel industry. Thus, the ADRP was unable to agree with the conclusion that hot-rolled coil producing SIEs possessed or had been vested with governmental authority. The ADRP noted while there was a degree of control by the GOC over participants in the industry, the evidence did not show that such control amounted to meaningful control in the sense intended by the Appellate Body, and did not show that SIEs in the iron and steel industry were exercising government authority.
303. The evidence does not show that SIEs supplying inputs into the production of galvanised steel coil were pricing those inputs on the basis of any government direction or authority, which indicates that the positive evidence of prices, as provided by Zong Cheng, reflects the market prices available to it. Similar conclusions apply with regard to any non-government-owned suppliers.

Conclusions

304. On the basis of the analysis above, MBIE concludes that providers of hot-rolled coil, cold-rolled coil and zinc as inputs into the production of galvanised steel coil, are not “public bodies” in the sense required by Article 1.1(a)(1) of the Subsidies Agreement, as interpreted by the Appellate Body. Accordingly, there is no programme which provides for inputs of hot-rolled coil, cold-rolled coil or zinc, supplied by a public body, to be priced at less than adequate remuneration.
305. MBIE therefore considers that there is no countervailable subsidy in respect to the provision of raw materials at less than adequate remuneration.

4.4.4 Provision of electricity at less than adequate remuneration

306. A finding of subsidisation in relation to the price of electricity would require that evidence is available to confirm that
- A producer purchased electricity

- The electricity provider was a government or other public body
- The prices paid were for less than adequate remuneration and conferred a benefit on the purchaser
- The prices paid were specific to an enterprise or industry.

Provision of electricity

307. The cooperating manufacturer has provided clear evidence that it uses electricity in the production of galvanised steel coil. Steel production generally is a user of electricity.

A government or other public body

308. Zong Cheng, responding to the questionnaire, advised that it purchases electricity from the State Grid Corporation of China (SGCC), Jiangsu Province, Jiangyin Branch. The entity responsible for prices charged to particular users in a particular location is the provincial electric power company owned by the SGCC, which is a state-owned entity, and prices are controlled by the NDRC, another government body.

309. According to its website⁴⁶ SGCC was founded on 29 December 2002 as a pilot state-owned corporation by the State Council. As a backbone state-owned enterprise that may affect national energy safety and economic lifelines, SGCC's core business is to build and operate power grids and provide secure and reliable power supply for the development of the society. SGCC has registered capital of RMB 200 billion yuan and services an area covering 26 provinces, autonomous regions and municipalities directly under the jurisdiction of the Central Government, which equals to 88 per cent of the national territory. Its president is the legal corporate representative of SGCC, which owns and manages five regional power grid companies and 24 provincial electric power companies, including Jiangsu Electric Power Company.

310. Electricity prices are controlled by the NDRC, which undertakes functions and responsibilities relating to national strategic planning for economic and social development across the Chinese economy. A variety of sources suggest that while the NDRC has sought to implement pricing policies on the basis outlined in the GOC questionnaire response, attempts to raise power prices have met with resistance from provincial and local officials who maintain an interest in providing reduced utility rates to industries operating within their localities.

Provision of a benefit

311. A benefit will be provided where electricity is provided at less than adequate remuneration when compared with prevailing market conditions for the good or service in the country of provision.

312. NZ Steel's application noted that electricity rates are set differently in different provinces, and preferential rates are used as an industrial policy tool to encourage high added-value

⁴⁶ <http://www.sgcc.com.cn/ywlm/gsgk-e/gsgk-e/gsgk-e1.shtml>; accessed on 27 March 2017.

steel products and discourage outdated production capacities. Lower rates are limited to certain enterprises in certain specified sectors. The policies are implemented via the NDRC.

313. In its questionnaire response, the GOC stated that electricity prices in China are based on market principles. The relevant pricing authorities are required to take into account the overall demand and supply present in the electricity market, as well as the costs of electricity generation and transmission. The retail prices of electricity consist of four parts: purchasing cost, transmission prices, transmission losses, and governmental surcharges. The differences in these costs as well as other costs like coal and coal transportation prices, among others, are analysed mainly on an enterprise as well as on a provincial basis. Differences in rates in different provinces arise from differences in electricity costs, but within one province electricity prices are equally applied to all end users.
314. Zong Cheng advised that there is no discount or reduction in price for electricity purchased, and it pays on a monthly invoice. Zong Cheng understands that prevailing electricity prices in China are high relative to other countries and are higher than that being claimed by the applicant. Electricity prices are determined by the GOC but Zong Cheng has no understanding or information about electricity prices in other provinces and how they compare to the prices paid by Zong Cheng. Zong Cheng provided information on comparative electricity prices in a range of countries, showing that industrial electricity is cheaper in New Zealand than in China.

Specificity

315. In its questionnaire response, the GOC noted that electricity is used by nearly all industries in China. Electricity prices are classified by end user categories such as residential use prices, agricultural use prices, large industry use prices and/or industrial and commercial use prices. Within each category, for each province in question, the electricity prices are applied equally to all end users, so there is no specificity with regard to the provision of electricity.
316. The EC investigation into certain organic coated steel products noted that the NDRC publishes prices applicable to each province and then local price bureaus publish a notice at the local level implementing those NDRC prices, with the final price reflecting purchasing costs, transmission costs and losses, and government surcharges. The prices are differentiated by province depending on the local situation and policy objectives pursued in the various provinces. The prices are set for different end user categories, eg residential, industrial, and the EC claimed that an additional price differential exists for different industrial users to pursue the industrial policies set by the GOC and reflected in Decision 40 and the Guidance Catalogue. Users falling within the prohibited” [“elimination”] category pay a surcharge on top of the basic rate and those falling in the “permitted” category pay the basic rate. The product being investigated by the EC was considered to fall within the “encouraged” category, as does galvanised steel coil as exported to New Zealand. MBIE notes that the EC approach to specificity in relation to this programme in this case reflects its own views as outlined in section 4.3.3 above. The subsidy rate for non-cooperating companies established by the EC was 0.17%.

317. The Australian authorities, in an investigation into another steel product, concluded that the rebar and rod in coil industries were not subject to specific or preferential electricity tariff rates. This confirms the position stated by the GOC and the cooperating manufacturer as it relates to galvanised steel coil.
318. The US DOC, in its investigation into corrosion-resistant steel, based its conclusion on the provision of electricity at less than adequate remuneration on adverse facts available. The US DOC used adverse facts available because it considered that the GOC had failed to explain why rates differed among provinces, not within provinces. The US DOC compared rates paid by YPC to the highest rates charged in China during the period of investigation by price category “large industrial users”, and established a rate of subsidy of 0.58% for YPC.

Conclusions

319. MBIE concludes that electricity is provided by a government or other public body, and notes that the legal requirement is to reflect differing costs in different regions, with different rates according to broad end-user categories.
320. MBIE is satisfied that the best information available indicates that the manufacture of galvanised steel coil exported to New Zealand has not benefited from preferential electricity rates which are specific to certain enterprises.
321. MBIE therefore concludes that there is no countervailable subsidy arising from the provision of electricity by a public body at less than adequate remuneration.

4.4.5 Import tariff exemptions

322. A finding of subsidisation in relation to import tariff exemptions provided to FIEs and certain domestic enterprises would require that evidence is available to confirm that
- Import tariff exemptions were provided
 - There was government revenue otherwise due that is foregone or not collected and that a benefit is conferred on the purchaser
 - The programme was specific to an enterprise or industry.

Provision of import tariff exemptions

323. In its application, NZ Steel noted that ‘Circular 37’ exempted FIEs and certain domestic enterprises from VAT and tariffs on imported equipment used in production provided the equipment did not fall into prescribed lists of non-eligible items. The VAT exemption was discontinued from 1 January 2009, so MBIE has excluded it from the investigation.
324. The Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment (Circular 37)⁴⁷ provides for the exemption from tariffs on equipment imported in line with “Current Catalogue of Key Industries, Products and Technologies the

⁴⁷ <http://www.asianlii.org/cn/legis/cen/laws/cotsccctaittpoie931/> accessed on 8 May 2017.

Development of Which Is Encouraged by the State (Provisional).”⁴⁸ This Catalogue appears to have been superseded by the Guidance Catalogue referred to in section 4.3.3 above with regard to domestic industries. As noted in that discussion, the list of “encouraged” projects did include galvanised steel coil, while certain galvanising activities were in the “restricted” category. The current position for FIEs is provided in the FIE Catalogue (see section 4.3.3 above) which does not include the iron and steel industry or its products under either “encouraged” or “restricted” categories.

325. Zong Cheng is the only foreign-invested manufacturer of galvanised steel exporting to New Zealand in FY2016. In its response to the questionnaire, Zong Cheng indicated that it did not import inputs, technologies or machinery or equipment during the investigation period, so did not benefit from any programme for import tariff exemptions.
326. Angang indicated in its questionnaire response in the Australian Investigation 193 that it had received benefits from this programme.
327. As discussed in section 4.3.3 above, Decision 40 and the Guidance Catalogue provide that tariff exemptions shall be provided for imports of equipment for self-use in projects identified as “encouraged”, which includes the production of galvanised steel coil.

Provision of a benefit

328. A tariff exemption is revenue foregone by the government, so the benefit provided is the level of that foregone revenue, being the amount of duty the recipient would otherwise pay.
329. In the Australian Investigation 193 the Australian authority apportioned the tax revenue foregone over the life of the equipment purchased, and concluded that a zero subsidy rate was applicable to cooperating exporters. The same rate was applied to non-cooperating exporters.
330. In the absence of information to allow the calculation of the benefit, the EC applied the rate established in an investigation in 2010-2011 into coated fine papers from China, which was 0.89%.
331. The US DOC, in its investigation into corrosion-resistant steel, in the decision memorandum for the preliminary determination, noted that it had previously found that VAT and tariff exemptions conferred countervailable subsidies. The level of countervailable subsidy found in respect to YPC was 0.56%.
332. Angang and other manufacturers of galvanised steel coil exported to New Zealand did not provide questionnaire responses so it is not known whether or to what extent they may have benefited from this programme.
333. MBIE has assessed the possible level of subsidy based on assumptions about the level of revenue foregone over the life of the equipment purchased, an indicative applicable tariff level, and applied the subsidy amount to the level of revenue in 2015. The outcome of this

⁴⁸ <http://www.asianlii.org/cn/legis/cen/laws/ccokipattdowiebts1175/> accessed on 8 May 2017.

assessment suggests that in order for any subsidy level to be meaningful, the value of the equipment purchased would need to be extremely high, and at a level that is unlikely to be realistic.

Specificity

334. The EC investigation into organic coated steel products considered that the programme was specific since access to it was limited to enterprises that invest in specific business categories defined by law.
335. The Australian Investigation 193 considered that the programme was specific because of the limitation of eligibility to FIEs which fell in the “encouraged” and “restricted” categories, or to domestic enterprises in the Guidance Catalogue.
336. The US DOC considered the programme to be specific in that the programme was limited to certain enterprises – FIEs and domestic enterprises involved in “encouraged” projects.
337. MBIE notes that the current version of the FIE Catalogue appears to exclude importations of equipment by FIEs for activities relating to galvanised steel coil production from the benefits of the programme, although the Guidance Catalogue includes galvanised steel coil in the “encouraged” category for domestic enterprises.
338. Accordingly, where the programme is used by manufacturers of galvanised steel exported to New Zealand it is a specific subsidy.

Conclusions

339. MBIE is satisfied that there is reliable information which indicates that manufacturers of galvanised steel coil exported to New Zealand may have received benefits under this programme, but notes the conclusions on the level of subsidy reached by the Australian authority with regard to its investigation into similar products, which reflects the low level of subsidisation indicatively calculated by MBIE.
340. MBIE concludes that there is no countervailable subsidy arising from the provision of import tariff exemptions to manufacturers of galvanised steel coil exported to New Zealand which provides benefits.

4.4.6 Export buyer’s credits

341. A finding of subsidisation in relation to export buyer’s credits would require that evidence is available to confirm that:
- Credits have been provided
 - The provider of the credits was a government or other public body
 - The difference between the rate paid on the credits and the amount paid on a comparable commercial facility conferred a benefit on the purchaser
 - The rates paid were specific to an enterprise or industry.

Provision of export buyer's credits

342. NZ Steel's application noted that this programme provides for state-owned banks, such as the Export-Import Bank of China, to make loans at preferential rates for the purchase by foreign buyers of exported goods from China.
343. The website of the Export-Import Bank of China notes that it provides export buyers' credit to foreign companies for their imports of Chinese product, technology and service, with loans provided both in Chinese yuan (renminbi) and in foreign currencies. Loans are provided to foreign financial institutions, the finance ministry of the import country, institutions authorised by the government of the import country, and importers, foreign companies and ship owners that the Bank deems qualified.
344. The GOC questionnaire response originally provided no information on export buyer's credits because no Chinese exporters or producers were cooperating in the investigation.
345. However, in response to a supplementary request for information, the GOC provided a copy of the "Administrative Measures of Export Buyer's Credit of EIBC" which sets out the requirements for the administration of the Export-Import Bank of China's export buyer's credit business. In particular, the Measures provide that the business contract supported by export buyer's credit must be for a contract amount over USD 2 million. No shipments of galvanised steel coil to New Zealand came close to meeting this requirement, nor did shipments of steel products including goods outside the range of the subject goods.
346. The questionnaire response from Zong Cheng stated that it had not received any benefits under the buyer's credit programme, as it has made no transactions involving export buyer's credit and has no loans with state-owned banks.
347. Questionnaire responses received from CMC, Marubeni and Stemcor indicated that they had not received any benefits from Chinese programmes. Questionnaire responses were not received from other exporters on this point.
348. The US DOC investigation into corrosion-resistant steel from China confirmed that the Export-Import Bank of China provides the principal of the buyer's credit programme directly to Chinese producers, while foreign buyers repay the interest to the Bank. The US DOC calculation of a countervailable subsidy was based on the use of adverse facts available because it was not able to verify the non-use of the programme by the cooperating exporter, and used a "similar" programme in another investigation to estimate the level of subsidy.
349. The programme was not included in the equivalent Australian investigation.

Conclusions

350. The information available establishes that under the rules governing the provision of export buyer's credits provided by the Export-Import Bank of China, no shipments to New Zealand qualified for the granting of export buyer's credits.
351. Cooperating exporters and the one cooperating manufacturer indicate that no assistance has been received under this programme.

352. In these circumstances, MBIE considers that information provided by the GOC and the responses from the cooperating exporters and the cooperating manufacturer are reliable, and provide the best information available.
353. Accordingly, the conclusion is that there is no financial contribution provided by way of export buyer's credits to shipments of galvanised steel coil to New Zealand, and there is no need to address issues of whether any financial contribution is provided by a government or other public body, whether any financial contribution confers a benefit, and whether any subsidy involved is specific.
354. On the basis of reliable information, MBIE concludes that there is no countervailable subsidy in respect to the provision of export buyer's credits.

4.4.7 Reported grants

355. A finding of subsidisation in relation to grants would require that evidence is available to confirm that
- A grant was received
 - The grant provider was a government or other public body
 - The grant conferred a benefit on the recipient
 - The grant was specific to an enterprise or industry.

Provision of grants

356. NZ Steel's application referred to information from the US DOC investigation into corrosion-resistant steel which indicated that YPC had received numerous grants from provincial and local governments. NZ Steel assumed that other suppliers to New Zealand were likely to have received similar grants.
357. Zong Cheng provided information on a grant it received from the provincial government.
358. Information on non-cooperating manufacturers in the current investigation indicates that they are not located in the municipalities or provinces that provided the grant programmes identified in the Australian investigation. It appears that in some cases the programmes considered by the Australian authorities were administered by central government agencies, and may, therefore, be available to non-cooperating manufacturers.
359. At least two of the non-cooperating manufacturers appear to be located in Jiangsu Province, along with Zong Cheng, and may have benefitted from at least the same programme.
360. Information obtained from financial reports from Angang and Baoshan indicates that they received government grants.

Angang

361. Angang's 2016 Annual Report (covering calendar year 2016) included, at Note 6 (15) on deferred income tax assets, a line for Government grants with an opening balance of RMB 172 million and closing balance of RMB 149 million for "Deferred income tax assets", and opening balance of RMB 689 million and closing balance of RMB 172 million for "Temporary difference or deductible loss".

362. In the same Annual Report, Note 6 (44) on “Non-operating income” listed Government grants of RMB 40 million for the current period, RMB 128 million for the previous period, and RMB 40 million as being recorded into extraordinary gains or losses. Grants related to assets totalled RMB 39 million in the current period and RMB 96 million in the previous period, with RMB 1 million for grants related to income in the current period and RMB 32 million in the previous period.
363. Note 6 (48) on “Items on statements of cash flow” recorded Government grants under cash received from other operating activities as RMB 40 million for the current period and RMB 298 million for the previous period.
364. No information has been provided regarding the purpose of the grants or the programmes under which they have been provided. In the absence of such information, MBIE has concluded that they should be treated as a financial contribution by a government.

Baoshan

365. The 2016 Semi-Annual Report for BaoSteel (Baoshan’s parent company), covering the six months to June 2016, included Government grants under Note 43 relating to “Deferred income”. Items were identified as being related to assets or liabilities, and included grants for:
- Major industries revitalisation and overall technical innovation projects
 - Interest subsidies for special loans
 - Relocation compensation
 - Infrastructure subsidies
 - Subsidies for Bassinet Hi-tech
 - Others
366. Similar information was provided in the 2015 Annual Report and the 2015 Semi-annual Report.
367. Apart from the descriptions noted above, no further information is available regarding the purpose of the grants or the programmes under which they have been provided. MBIE notes that Bassinet Hi-tech is a subsidiary software company and is not considered to be part of the steel operations. The items covering relocation compensation and infrastructure subsidies did not change over the period. Otherwise, in the absence of further information, MBIE has concluded that the other grants should be treated as a financial contribution by a government.

A government or other public body

368. Where grants are received from central, provincial and local governments they are a financial contribution by a government.

Provision of a benefit

369. The level of benefit will depend on how the grant is treated in the accounts of the recipient. Where a grant is treated as income, the level of the benefit is normally equivalent to the level of the grant, less any fees or other costs as set out in section 7(3) of

the Act. Where a grant is treated as an asset, the level of benefit, net of any fees or other costs will be allocated across the life of the asset.

370. The information provided by Zong Cheng included the cost of applying for the grant. Since the cost exceeded the level of the grant there was no benefit.
371. If manufacturers of galvanised steel also located in Jiangsu Province received similar grants to Zong Cheng, and in the absence of any information concerning application costs, the level of the benefit would be 0.02% for such manufacturers.
372. The US DOC investigation into corrosion-resistant steel, in the decision memorandum for the preliminary affirmative determination, noted that YPC had reported receiving grants not addressed in the original questionnaire, and that the GOC was determined to have withheld information requested of it in relation to such grants. An adverse inference was drawn and it was found that the grants to YPC constituted a financial contribution, provided a benefit and were specific, although on the basis of its methodology the US DOC found that only one reported grant reached its threshold, and a countervailable subsidy rate of 0.02% was determined.
373. With regard to Angang, the value of grants considered to be financial contributions by a government includes grants related to income and grants related to assets, which have been treated as deferred income amortised to the profit and loss of the current period. The total value of the grants calculated on this basis has been divided by total revenue over the same period, with the level of benefit so calculated being 0.07%.
374. With regard to Baoshan, the value of grants included as non-operating income in Baoshan's financial reporting has been divided by total revenue over FY2016, with a level of benefit so calculated being 0.08%.
375. The weighted average level of subsidy for non-cooperative manufacturers is 0.08%.

Specificity

376. In the absence of information from manufacturers of galvanised steel coil exported to New Zealand MBIE has not been able to clarify the basis for all of the grants referred to.
377. Information is available on the grant received by Zong Cheng, which related to "Energy Saving Special Funds" which is provided to any industry or company that demonstrates that it saves energy and is environmentally friendly. Companies are required to establish an Energy Saving Team and Energy Management System. This approach appears to be consistent with energy management policies in China⁴⁹ and provides evidence that eligibility for programmes aimed at achieving energy savings is not limited to certain

⁴⁹ See, for instance, Crossley, David, at "Energy Efficiency in China" (2013) in *Climate Spectator*, at <https://www.raponline.org/wp-content/uploads/2016/05/crossley-energyefficiencyinchina-climatespectator-2013-feb-08.pdf> accessed on 24 May 2017, and also "Bringing China's Energy Efficiency Experience to the World: Knowledge Exchange with Asian Countries" at <http://www.worldbank.org/en/news/feature/2014/06/27/bringing-chinas-energy-efficiency-experience-to-the-world-knowledge-exchange-with-asian-countries> accessed on 24 May 2017.

enterprises within the steel sector. Accordingly, the grant provided to Zong Cheng is not considered to be specific.

378. Information is not available for the grants identified by Angang or Baoshan, but their nature suggests that there may be limitations on eligibility which could relate to the “encouraged” status of certain activities in the steel sector, including production of galvanised steel coil. The grants identified by Baoshan relate to the revitalisation of major industries and overall technical innovation projects, subsidies on the interest paid on special loans, relocation compensation which relates to the relocation of company activities, and infrastructure subsidies. In the absence of further information MBIE considers that these subsidies are likely to be specific.

Conclusions

379. MBIE concludes that no countervailable subsidies were provided to Zong Cheng through government grants, and that countervailable subsidies to non-cooperating manufacturers of galvanised steel coil exported to New Zealand totalled 0.08%.

4.4.8 Other subsidy programmes

380. A finding of subsidisation in relation to other subsidy programmes would require that evidence is available to confirm that

- A subsidy was received
- The subsidy provider was a government or other public body
- The subsidy conferred a benefit on the recipient
- The subsidy was specific to an enterprise or industry.

Provision of subsidies

381. In its application, NZ Steel referred to the investigations into similar products undertaken by the Australian and US authorities, and listed subsidies found to be countervailable by those authorities. The application provided more detailed information from the US DOC investigation as it related to YPC, the only cooperating exporter in that investigation, in support of its calculations of the level of subsidy available.
382. In its submission of 26 May 2017, NZ Steel requested that the full range of subsidy programmes mentioned in its application should be investigated. These included 36 programmes investigated by the Australian authorities in Investigation 193, and 51 programmes investigated by the US DOC in *Corrosion-Resistant Steel*. NZ Steel also notes that the Australian ADC investigation into steel reinforcing bar identified 177 steel-related subsidies and 240 countervailed subsidies on Chinese steel goods.
383. The 36 programmes identified in the Australian Investigation 193 included many of those also referred to in the US DOC investigation into corrosion-resistant steel. Others included the provision of inputs at less than adequate remuneration, tax-related benefits, and grants available nationally or specific to provinces or municipalities. For virtually all of the programmes, the Australian authority determined that a zero subsidy rate was applicable to cooperating exporters, with rates for non-cooperating exporters being based on the rates established in the hollow steel structures investigation undertaken by the Australian

authority in 2012. The outcome was that negligible levels of subsidy were established for Angang, one of the major suppliers of galvanised steel coil exported to New Zealand.

384. MBIE has reviewed the 51 programmes identified by the US DOC and put forward by NZ Steel, and notes that the programmes and subsidy rates for non-cooperating exporters are all based on adverse facts available. The programmes and rates based on information from the cooperating manufacturer, YPC, are covered by the programmes discussed elsewhere in this section of the report. Other programmes included in the US DOC list are in similar categories to those addressed above, eg provision of inputs at less than adequate remuneration, and the same considerations and conclusions apply.
385. Zong Cheng advised that it received no grants or subsidies other than the environmental grant discussed above.
386. References to government subsidies in Baoshan's financial reports related to the treatment of some of the government grants as described in Note 27 to the 2015 Baosteel Annual Report, and are addressed in section 4.4.7 above. Other government subsidies not addressed under Reported Grants above, which are referred to in the Baosteel financial reports include tax refunds, which were dealt with as non-operating income, but are considered likely to reflect benefits received under some of the available programmes identified in the Australian and US investigations.

Government or other public body

387. Where subsidies are received from central, provincial and local governments they are a financial contribution by a government.

Provision of a benefit

388. The level of benefit will depend on how the subsidy is treated in the accounts of the recipient. Where a subsidy is treated as income, the level of the benefit is normally equivalent to the level of the grant, less any fees or other costs as set out in section 7(3) of the Act. Where a subsidy is treated as an asset, the level of benefit, net of any fees or other costs will be allocated across the life of the asset.
389. The level of tax refunds referred to in Baoshan's financial reports was treated as income and divided by total revenue over FY2016, with a level of benefit so calculated being 0.001%, which is too low to be meaningful, and MBIE does not consider it to be a basis for inclusion in any overall level of subsidisation.

Specificity

390. In the absence of information from manufacturers of galvanised steel coil exported to New Zealand MBIE has not been able to clarify the basis for all of the subsidies referred to, but considers it likely that they will be specific on the grounds that they are provided to an "encouraged" industry, or because they relate to a designated geographical area, or are otherwise limited to "certain enterprises."

Conclusions

391. MBIE concludes that no other subsidies were provided to Zong Cheng.

392. MBIE concludes that other subsidies identified as being provided to Baoshan were at such a low level they do not indicate a level of subsidy that requires inclusion in the total subsidy calculation.
393. In view of the lack of reliable information to support any claims that the additional programmes referred to by NZ Steel in its submission of 26 May 2017 apply to galvanised steel coil exported to New Zealand, MBIE does not consider that it needs to address them outside the scope of the matters covered elsewhere in this section of the report.

4.5 Conclusions Relating to Subsidies

394. Based on the analysis summarised above, the subsidy levels established for manufacturers of galvanised steel coil exported to New Zealand are:

Jiangyin Zong Cheng Steel Co Ltd	0.00%
Other manufacturers	0.08%

395. MBIE concludes that the subsidies determined in the investigation are at *de minimis* levels.

4.6 Further Proceedings

396. This Essential Facts and Conclusions report is provided pursuant to section 10A of the Act which requires that the parties to the investigation be given written advice of the essential facts and conclusions that will likely form the basis for any final determination to be made. Article 12.8 of the Subsidies Agreement states that authorities shall, before a final determination is made, inform all interested Members and interested parties of the essential facts under consideration which form the basis for the decision whether to apply definitive measures, and that such disclosure should take place in sufficient time for the parties to defend their interests.
397. Following the release of this report, interested parties will have until 23 June 2017 to make comments and defend their interests. Normally, this would mean that the Final Report, which takes into account any submissions made in response to the release of the essential facts and conclusions, will be forwarded to the Minister with recommendations for a final determination to be made by 9 July 2017.
398. Section 11(1) of the Act requires the Minister, at any time before making a final determination, to terminate an investigation where the Minister is satisfied that there is insufficient evidence of subsidisation to justify proceeding with the investigation; or there is insufficient evidence that material injury to a New Zealand industry is being caused or threatened; or in the case of subsidisation, the imposition of countervailing duties in respect of the goods would be inconsistent with New Zealand's obligations as a party to the WTO Agreement. Section 11(2) of the Act states that evidence of subsidisation shall be insufficient where the amount of the subsidy is less than 1 per cent of the value of the goods at the time of import.
399. Article 11.9 of the Subsidies Agreement requires that an investigation be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either subsidisation or injury to justify proceeding with the case. There shall be

immediate termination in cases where the amount of subsidy is *de minimis*, or where the volume of subsidised imports, actual or potential, is negligible. In the case of developing countries, which includes China, the *de minimis* level of subsidy is 2 per cent of the value of the goods, calculated on a per unit basis. The volume of subsidised imports is negligible if it represents less than 4 per cent of total imports of the like product.

400. In view of the requirement to take account of submissions from interested parties on the essential facts and conclusions described in this report, and given the short time available between the final date for the receipt of such submissions and the date for the final determination, MBIE does not propose to address the question of termination as a separate matter from the final determination. This reflects MBIE's past practice as shown in its 2014 dumping investigation into *Diaries from Korea*.
401. In the light of these conclusions, an analysis of any injury attributable to subsidised imports of the subject goods is undertaken in the next section of this report. This analysis reflects the outcome of MBIE's consideration of the impact of imports of the subject goods from China, and the extent to which the levels of subsidisation found in respect of those goods may have contributed to that injury.

5. Injury Investigation

402. The basis for considering material injury is set out in section 8(1) of the Act:

8. Material injury to industry—(1) In determining for the purposes of this Act whether or not any material injury to an industry has been or is being caused or is threatened or whether or not the establishment of an industry has been or is being materially retarded by means of the dumping or subsidisation of goods imported or intended to be imported into New Zealand from another country, the Secretary shall examine—

- (a) The volume of imports of the dumped or subsidised goods; and*
- (b) The effect of the dumped or subsidised goods on prices in New Zealand for like goods; and*
- (c) The consequent impact of the dumped or subsidised goods on the relevant New Zealand industry.*

403. MBIE interprets this to mean that injury is to be considered in the context of the impact on the industry arising from the volume of the allegedly subsidised goods, their effect on prices, and the consequent impact on the industry. This is consistent with Article 15 of the Subsidies Agreement.

404. The Act goes on to set out a number of factors and indices which the Secretary shall have regard to, although noting that this is without limitation as to the matters the Secretary may consider. These factors and indices include:

- The extent to which there has been or is likely to be a significant increase in the volume of subsidised goods, either in absolute terms or relative to production or consumption;
- The extent to which the prices of subsidised goods represent significant price undercutting in relation to prices in New Zealand;
- The extent to which the effect of the subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have occurred;
- The economic impact of the subsidised goods on the industry, including actual or potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; factors affecting domestic prices; and actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.

405. In addition, the Secretary must have regard to factors other than subsidisation which may be injuring the industry, since in accordance with Article 15.5 of the Subsidies Agreement, it must be demonstrated that the subsidised imports are, through the effects of subsidies, causing material injury.

406. The demonstration of a causal relationship between the subsidised imports and the injury to the domestic industry must be based on an examination of all relevant evidence before the authorities, who must examine any known factors other than the subsidised imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the subsidised imports. Factors which may be

relevant in this respect include, *inter alia*, the volumes and prices of non-subsidised imports of the product in question, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

407. The Secretary is also required to have regard to the nature and extent of importations of subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importation. Material injury is normally assessed by comparing data for an injury factor against the data in a period unaffected by subsidisation.
408. Section 11(1) of the Act provides for the termination of an investigation where the Minister is satisfied in respect of some or all of the goods under investigation, that there is insufficient evidence that material injury to a New Zealand industry has been or is being caused or is threatened by means of dumping of the goods.

5.1 Import Volumes

409. Section 8(2)(a) of the Act provides that the Secretary shall have regard to the extent to which there has been or is likely to be a significant increase in the volume of imports of subsidised goods either in absolute terms or in relation to production or consumption in New Zealand.
410. The following table shows imports of galvanised steel coil based on Customs data for the relevant tariff item and statistical keys for galvanised steel coil, adjusted by the removal of data for imports from BlueScope Australia (a related company to NZ Steel), and imports of steel coil coated with alloys of zinc and aluminium, since the application identifies that these goods are not part of the application.

Table 5.1: Import Volumes of galvanised steel coil – Customs Data, adjusted*

	FY2012	FY2013	FY2014	FY2015	FY2016
Tonnes					
China	2565	3956		54%	118%
Taiwan	511	602		47%	241%
Japan	876	107		224%	125%
Korea	537	136		161%	156%
Other	380	557			
Total	4869	5359	7376	3995	7080
%					
China	53%	74%		100%	67%
Taiwan	10%	11%		87%	136%
Japan	18%	2%		414%	71%
Korea	11%	3%		298%	88%
Other	8%	10%			

* Adjusted as described in paragraph 25 above.

411. These import statistics reflect corrections to errors in classification that have become known through analysis of import documentation provided by exporters and importers.

412. However, Tables 5.1 and 5.2 have not been adjusted to reflect the conclusions regarding like goods summarised in section 2.2.1 above which were that the goods description should be limited to with a width up to 1260mm but need not be changed to account for differences in spangled finishes. As described in that section, information on imports from China in years prior to FY2016, or from sources other than China for any year, is not available in sufficient detail to identify the widths of galvanised steel coil shipped to New Zealand.
413. Imports from China in FY2016 that fit the subject goods description were around half of the imports (i.e. [REDACTED] tonnes) shown in Tables 5.1 and 5.2. Given this situation, and the difficulty of supporting any assumptions about the likely levels of imports of like goods, the analysis has proceeded on the basis of the figures in the tables.
414. On the basis of the import data above and domestic sales information provided by NZ Steel, the following table shows the evolution of sales.

**Table 5.2: Sales
(tonnes, percentages)**

	FY2012	FY2013	FY2014	FY2015	FY2016
Market (tonnes):					
Domestic sales	[REDACTED]	106%	108%	105%	112%
Imports from China	2565	3956	[REDACTED]	54%	118%
Other Imports	2305	1403	[REDACTED]	54%	242%
NZ Market (total)	[REDACTED]	107%	112%	97%	118%
Shares of NZ market (%):					
Imports from China	[REDACTED]	144%	87%	56%	100%
Other imports	[REDACTED]	57%	225%	56%	205%
Domestic sales	[REDACTED]	100%	97%	108%	95%
China as % of domestic sales	[REDACTED]	145%	90%	52%	105%
Changes from previous year (tonnes):					
Domestic sales		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Imports from China		1391	[REDACTED]	[REDACTED]	[REDACTED]
Other imports		-902	[REDACTED]	[REDACTED]	[REDACTED]
NZ market (total)		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

415. Imports of the subject goods from China have increased, but over the last two years they have shown a decline compared with FY2012, while other imports, particularly from Taiwan have increased. Sales volumes by NZ Steel have increased regularly over the period.
416. The questionnaire response from the only cooperating manufacturer indicated that it did not actively seek orders in export markets, but responded to orders from an intermediary which were based on local demand in New Zealand. Any future volumes of exports to New Zealand would depend on the receipt of orders.
417. Questionnaire responses from importers gave a range of expectations for import growth, from no change and no significant growth in imports, to growth that reflects market growth.

418. However, it is reasonable to conclude, on the basis of the information that there has not been a significant increase in the volume of imports of the subject goods in either absolute terms or relative to production or consumption in the domestic market.
419. It is noted that NZ Steel's policy is to maintain sales levels through price competition, so it is not unexpected that sales of domestic production have not declined or that import volumes have not increased significantly.

5.2 Price Effects

420. Section 8(1) of the Act requires that in determining whether or not material injury is being caused to an industry, the Secretary shall examine the effect of the subsidised goods on prices in New Zealand for like goods. Sections 8(2)(b) and (c) include, among the matters the Secretary shall have regard to in that consideration, the extent to which the prices of the subsidised goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers; and the extent to which the effect of the subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have been likely to have occurred.
421. In its application, and during MBIE's verification visit to its premises, NZ Steel provided a detailed explanation of the basis on which it sets prices for its sales. This process begins with the gathering, on a monthly basis, of market offer feedback from New Zealand distributors for imported steel products, pricing from international steel review publications, and from BlueScope overseas offices. These prices are generally expressed in USD. The prices are converted to NZD free in store (FIS) terms by adding freight charges, port service charges and handling costs, import duty (where applicable) and domestic cartage to distributor's store, to determine a nominal FIS import price. A premium is then applied to the import price to reflect the benefits of local supply. NZ Steel's distributor price, less any rebates, is compared with the nominal FIS price and a market price adjustment is made if necessary to reflect any change in import pricing. Changes in NZD-USD cross rates can also affect the comparison.
422. During the verification visit to its premises, and in its submission of 27 March 2017, NZ Steel reiterated its concerns about the impact of lower and undercutting prices of goods from China on the price discussion that it has with its customers. This impact arises from NZ Steel's customers being aware of the pricing of Chinese goods, and the need for NZ Steel to drop its prices to meet that pricing. The price reductions are reflected in reduced profits.

5.2.1 Price Undercutting

423. Section 8(2)(b) of the Act provides that the Secretary shall have regard to the extent to which the prices of the subsidised goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers. It should be noted that the determination that price undercutting exists is not by itself a determination of the extent of injury, ie the margin of price undercutting is not a

measure of the extent of the economic impact on the industry. That impact is to be measured in terms of the factors and indices set out in section 8(2)(d) of the Act.

424. In considering price undercutting, MBIE has compared prices at NZ Steel’s ex-factory price (ie its FIS price less freight) and the ex-wharf level for imports, to ensure that differences in distribution costs and importer margins do not confuse the impact of subsidisation.
425. Using pricing and cost information sourced from importers of the subject goods and from NZ Steel, the following table compares the ex-wharf prices for imports with NZ Steel’s ex-factory prices. MBIE has undertaken this price undercutting analysis for each shipment to New Zealand and has matched the grades and types of steel coil imported with the identical or most equivalent grade and type produced by NZ Steel.
426. Table 5.3 belows shows the results of the price undercutting analysis. An undercutting range is shown for each importer along with the percentage of each importer’s total import volume that undercuts the domestic industry’s prices. The price undercutting margins are measured as a percentage of NZ Steel’s prices.

Table 5.3: Price undercutting margins for galvanised steel coil Imported from China (FY2016)

Importer	Import volume (tonnes)	Undercutting margin (%)*	% of imports undercutting domestic prices
Roll Formers			
RCML			
Kiwi Steel			
Easy Steel			
STH			
Steel Co			
Vulcan Steel			
Total volume		Total % of imports	55%
* nil denotes no undercutting for some shipments			

427. On this basis, price undercutting has occurred, but not for all importers, with the levels of undercutting varying for each importer.
428. MBIE concludes that there is evidence of price undercutting. However, based on the subsidy levels established it cannot be concluded that this price undercutting is an effect of the subsidisation of galvanised steel coil exported to New Zealand from China.

5.2.2 Price Depression

429. Price depression occurs when prices are lower than those in a market unaffected by subsidisation, usually in a previous period. In this context, price depression refers to reductions in prices made by domestic producers in order to deal with competition from prices of dumped goods. Section 8(2)(c) of the Act provides that the Secretary shall have regard to the extent to which the effect of the subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers.

Table 5.4: Price Depression – NZD/tonne

	Ex-factory Price NZD	Quarterly Change NZD	As % of Q3 2011
Q3 2011			100%
Q4 2011			96%
Q1 2012			96%
Q2 2012			94%
Q3 2012			92%
Q4 2012			89%
Q1 2013			84%
Q2 2013			86%
Q3 2013			85%
Q4 2013			85%
Q1 2014			84%
Q2 2014			83%
Q3 2014			81%
Q4 2014			83%
Q1 2015			82%
Q2 2015			83%
Q3 2015			79%
Q4 2015			79%
Q1 2016			77%
Q2 2016			75%

430. Table 5.4 above shows information on price depression at the ex-factory price level. It shows that NZ Steel’s average selling price decreased over the period. By Q2 2016, NZ Steel’s average selling price had dropped to 75 per cent of its Q3 2011 average selling price, and while there were some quarters when prices recovered slightly, the overall trend is downwards.
431. MBIE concludes that there is evidence of price depression. However, based on the subsidy levels established it cannot be concluded that this price depression is an effect of the subsidisation of galvanised steel coil exported to New Zealand from China.

5.2.3 Price Suppression

432. Section 8(2)(c) of the Act also provides that the Secretary shall have regard to the extent to which the effect of the subsidised goods is or is likely significantly to prevent price increases for those goods that otherwise would have been likely to have occurred.
433. MBIE has generally based its assessment of price suppression on positive evidence, in particular the extent to which cost increases have not been recovered in prices. Cost increases not recovered in prices will be reflected in increases in costs relative to sales revenue (ie costs expressed as a percentage of prices). Where cost savings have been made, the lack of any price increase will not normally be regarded as price suppression.

**Table 5.5: Price Suppression
(NZD 000)**

	Total Sales \$000	Fixed Costs (including S&A)	Fixed Costs as % of Sales	Variable Costs	Variable Costs as % of Sales
Q3 2011	100%		100%		100%
Q4 2011	101%		105%		104%
Q1 2012	91%		101%		101%
Q2 2012	110%		100%		102%
Q3 2012	109%		98%		106%
Q4 2012	74%		103%		103%
Q1 2013	114%		105%		106%
Q2 2013	100%		99%		98%
Q3 2013	121%		110%		101%
Q4 2013	81%		93%		99%
Q1 2014	96%		102%		100%
Q2 2014	113%		99%		97%
Q3 2014	116%		100%		111%
Q4 2014	81%		100%		98%
Q1 2015	108%		99%		101%
Q2 2015	88%		99%		100%
Q3 2015	148%		108%		105%
Q4 2015	71%		101%		100%
Q1 2016	102%		103%		102%
Q2 2016	103%		102%		103%

434. Table 5.5 above shows that NZ Steel’s fixed and variable costs increased over the period concerned as a proportion of sales revenue, indicating an inability to recover increases in costs through price increases. The movement in the inability to recover cost increases was relatively gradual but by the end of the period was running at █ percentage points higher for fixed costs and █ percentage points higher for variable costs, giving a total of █ percentage points, which is regarded as significant.
435. MBIE concludes that there is evidence of price suppression. However, based on the subsidy levels established it cannot be concluded that this price suppression is an effect of the subsidisation of galvanised steel coil exported to New Zealand from China.

5.2.4 Conclusion on Price Effects

436. MBIE concludes that there is evidence of price undercutting by imports from China, and there is also evidence that the domestic industry has experienced price depression and price suppression. These effects arise from the low price of imports from China and NZ Steel’s response to them. However, based on the subsidy levels established it cannot be concluded that these are effects of the subsidisation of galvanised steel coil exported to New Zealand from China.

5.3 Economic Impact

437. Section 8(1) of the Act requires the Secretary to examine the volume and price effects of the subsidised goods, and the consequent impact of the subsidised goods on the relevant New Zealand industry. Section 8(2)(d) outlines matters relating to the economic impact of the subsidised goods on the industry that the Secretary shall have regard to.

5.3.1 Output and Sales

438. Movements in sales revenue reflect changes in volumes and prices of goods sold. Subsidised imports can affect both of these factors through increased supply of goods to the market and through price competition.

439. The following table sets out the sales volume and sales revenue information provided by NZ Steel.

**Table 5.6: NZ Steel - Sales volume and sales revenue
(as % of previous year)**

	FY2012	FY2013	FY2014	FY2015	FY2016
Sales Volume (tonnes)					
Annual change (%)		106%	108%	105%	112%
Sales revenue (NZD 000)					
Annual change (%)		96%	103%	102%	105%
Revenue per unit (NZD/tonne)					
Annual change (%)		91%	95%	97%	94%

440. NZ Steel has advised that its strategy is to retain volume by competing on price (plus other assured quality and service elements). Injury effects are therefore reflected in sales revenue decreases and loss of profits, rather than in volume effects.

441. The information in Table 5.6 shows that NZ Steel's annual sales volumes and revenue have generally increased over the period, although revenue per unit decreased compared with FY2012. This confirms the company's approach of matching prices to maintain volume of sales.

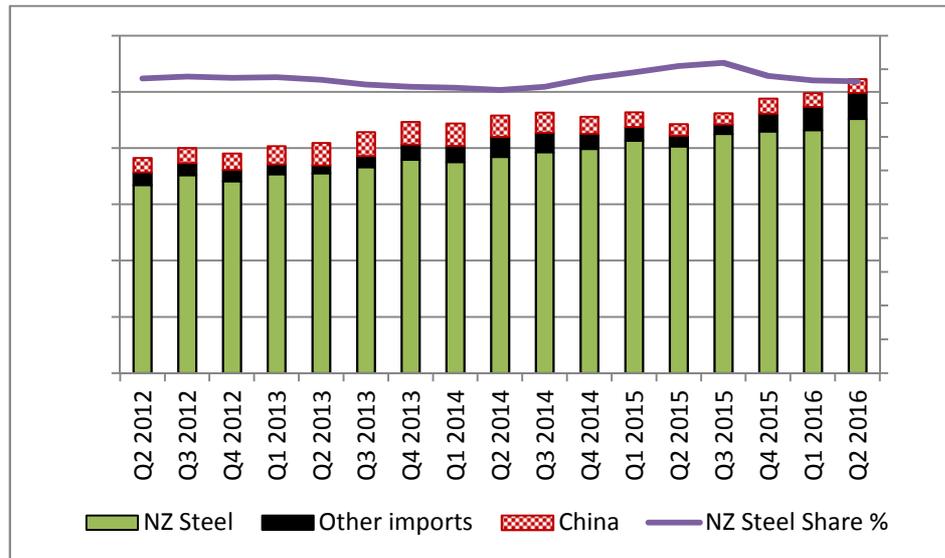
442. MBIE concludes that there has not been a decline in output or sales by the domestic industry.

5.3.2 Market Share

443. The analysis of market share must take account of changes in the growth of the market as a whole. A decline in the share of the market held by the domestic industry in a situation where the market as a whole is growing will not necessarily indicate that injury is being caused to the domestic industry, particularly if the domestic industry's sales are also growing. There is no "entitlement" to a particular market share.

444. The following chart shows quarterly market shares held by NZ Steel, and imports from China and other countries. Running annual totals help by smoothing out fluctuations in shipment frequencies.

Figure 1: Market shares
Running annual totals by quarter - %

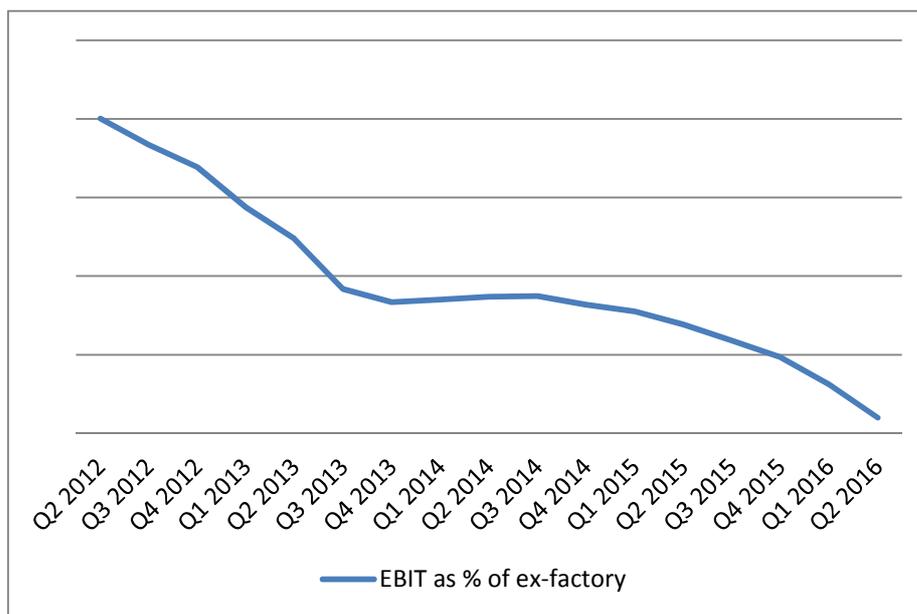


445. The information shows that NZ Steel’s market share declined from 2012 to 2014, but has risen since then to a level only slightly below that of 2012. China’s market share grew slightly in 2013 and 2014 but has since fallen to below 2012 levels in the latest period. Imports from other countries have fluctuated over the period but over recent periods have shown large increases compared with 2012. These figures do not reflect the effect of the revised like goods definition, which is likely to reduce the share of imports and increase NZ Steel’s market share.
446. The information available confirms that NZ Steel seeks to maintain market share, which has not shown any real decline.

5.3.3 Profits

447. Changes in net profit reflect changes in prices, sales volumes or costs. Subsidised imports can impact on any or all of these. Normally, the extent of a decline in profit will be measured against the level achieved in the period immediately preceding the commencement of dumping.
448. NZ Steel has argued that the main impact of the subsidised imports has been on profits, as prices have been reduced to match prices of imports from China. NZ Steel claims that during the application period it experienced a steady decline in profitability.
449. The following graph shows NZ Steel’s earnings before interest and taxation (EBIT) figures as a percentage of ex-factory sales as rolling twelve month totals on a quarterly basis from Q4-2012 to Q2-2016. EBIT is the gross profit on galvanised steel coil less fixed costs and distribution costs. Figures for individual quarters, ie not running totals, show that in the final two quarters of FY2016, EBIT was █ per cent and negative █ per cent respectively.

**Figure 2: NZ Steel - EBIT as a % of ex-factory sales
Rolling twelve month totals**



450. All measures of EBIT show significant declines. These measures include the total amount, as a percentage of total sales, and on a per unit basis. On this basis, MBIE can conclude that there has been an actual decline in profits which correlates significantly with and can be attributed to price undercutting, price depression and price suppression. However, based on the subsidy levels established it cannot be concluded that the decline in profits is an impact of the subsidisation of galvanised steel coil exported to New Zealand from China.

5.3.4 Productivity

451. Productivity is the relationship between the output of goods and the inputs of resources used to produce them. Changes in productivity are affected by output levels and by the level of capacity utilisation.

452. MBIE confirmed during the verification visit that NZ Steel considers that productivity, being based on the production of galvanised steel coil per employee engaged in that production is not a useful material injury factor in the particular circumstances of this case.

5.3.5 Return on Investments

453. A decline in return on invested capital (ROIC) will result from a decline in returns with or without a relative increase in the investment factor being used. Movements in the return on investments affect the ability of the industry to retain and attract investment.

454. During the verification visit to NZ Steel, the company provided an updated table relating to the ROIC on galvanised coil, which is [redacted] per cent of metal coating line (MCL) throughput, as evidence of the decline in ROIC. This evidence, which was verified, showed that estimated ROIC for galvanised coil declined from [redacted] per cent in 2012 to [redacted] per cent in 2015, but if 2012 EBIT levels had been maintained the ROIC in 2015 would have increased to [redacted] per cent.

455. The evidence shows that NZ Steel has suffered an economic impact as a diminished return on investments proportional with the price effects and the impact on EBIT margin. However, based on the subsidy levels established it cannot be concluded that the effect on the return on investments is an impact of the subsidisation of galvanised steel coil exported to New Zealand from China.

5.3.6 Utilisation of Production Capacity

456. The utilisation of production capacity reflects changes in the level of production, although in some cases it will arise from an increase or decrease in production capacity. In either case, a decline in the utilisation of production capacity will lead to an increase in the unit cost of production, and a consequent loss of profit.
457. During MBIE's verification visit to NZ Steel's premises, NZ Steel noted that production capacity has been increasing year-by-year due to various machinery and process improvements. Its production capacity utilisation rate is based on production volumes, which have been unaffected by subsidised goods, and is not considered by NZ Steel to be a material injury factor in the particular circumstances of this case.

5.3.7 Factors Affecting Domestic Prices

458. During MBIE's verification visit NZ Steel noted that it considers the primary factor affecting domestic prices over the injury period is the price of the subsidised Chinese imports. NZ Steel claimed that these prices impact the discussions that NZ Steel has with customers when negotiating prices.

5.3.8 Other Adverse Effects

Cash Flow

459. During MBIE's verification visit NZ Steel noted that cash flow- effects specific to the subsidised goods are difficult to isolate out of the MCL business unit, but that it is possible to reasonably infer the adverse effect upon NZ Steel's cash flow from an EBIT base, in a similar manner to return on investments. Figures verified at the company visit indicate that the company has incurred an adverse effect on cash flow over the FY2012 – FY2016 period.

Inventories

460. It was confirmed during the verification visit that year-to-year ending inventory changes are not claimed by NZ Steel to be a material economic effect of the subsidised goods. The company considers that the investigation should focus on price-related injury (and consequential effect) at the nexus of import price competition from China. For this reason and the fact that the product is made to order, NZ Steel does not consider inventory to be a useful material injury factor in the particular circumstances of this case.

Employment and Wages

461. MBIE confirmed during the verification visit that NZ Steel does not consider employment and wages or salaries to be a useful material injury factor in the particular circumstances of this case.

Growth

462. During the verification visit NZ Steel noted that its potential source of growth funding has a choice to direct capital funds to geographies where subsidised steel goods are ‘trade-remedied’. That decision ability also exists in the decision-making process regarding NZ Steel’s capital allocations, indicating that the availability of subsidised imports and their impact affects growth.

Ability to Raise Capital and Investments

463. In its application, NZ Steel claimed its parent company, Bluescope, had intentions to expand NZ Steel’s product range of metal coating, but this project was cancelled due to lower profitability. In a supplementary submission to its application, NZ Steel provided evidence that the proposed capital investment in NZ Steel’s MCL was indefinitely placed on hold in mid- [REDACTED] and effectively cancelled soon afterwards. There were [REDACTED] [REDACTED] this decision to cancel, [REDACTED] [REDACTED] the MCL was not as profitable as it had been previously. At the verification visit, NZ Steel did not further evidence this topic. NZ Steel observed that any un-remedied presence in New Zealand of injurious subsidised galvanised steel coil adversely affects any requests the company might make to its owner for capital.

5.3.9 Conclusion on Economic Impact

464. The conclusions reached with regard to the economic impact of subsidised imports on output, sales and market share is that any injury arises from the price effects identified above.
465. The conclusions reached with regard to the economic impact of subsidised imports on profits, return on investments, factors affecting domestic prices, cash flow, growth and ability to raise capital, are that, based on the subsidy levels established it cannot be concluded that the impact on these factors is an impact of the subsidisation of galvanised steel coil exported to New Zealand from China.
466. With regard to productivity, utilisation of production capacity, inventories, and employment and wages, it is noted that NZ Steel does not consider them to be useful material injury factors in the particular circumstances of this case.
467. Based on the subsidy levels established, MBIE concludes that there is no economic impact which can be attributed to imports of subsidised goods from China.

5.4 Conclusions Relating To Injury

Import Volumes

468. MBIE concludes that there has not been a significant increase in the volume of imports of the subject goods in either absolute terms or relative to production or consumption in the domestic market.

Price Effects

469. MBIE concludes that, there are price effects attributable to imports from China, but based on the subsidy levels established, there are no price effects which can be attributed to imports of subsidised goods from China.

Economic Impact

470. MBIE concludes that, based on the subsidy levels established, there is no economic impact on the industry which can be attributed to imports of subsidised goods from China.

Conclusions

471. MBIE's overall conclusion, based on the subsidy levels established, is that while there is evidence of injury to the domestic industry attributable to the price effects of imports from China, material injury to an industry is not being caused by the subsidisation of imports from China.

6. Causal Link

473. Sections 8(2)(e) and (f) of the Act provide that the Secretary shall have regard to factors other than the subsidised goods which have injured, or are injuring, the industry, including—
- the volume and prices of goods that are not sold at subsidised prices;
 - contraction in demand or changes in the patterns of consumption;
 - restrictive trade practices of, and competition between, overseas and New Zealand producers;
 - developments in technology;
 - export performance and productivity of the New Zealand producers; and
 - the nature and extent of importations of subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

474. Article 15.5 of the Subsidies Agreement provides:

It must be demonstrated that the subsidized imports are, through the effects of subsidies, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the subsidized imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the subsidized imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the subsidized imports. Factors which may be relevant in this respect include, inter alia, the volumes and prices of non-subsidized imports of the product in question, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

6.1 Injury Attributable to Imports

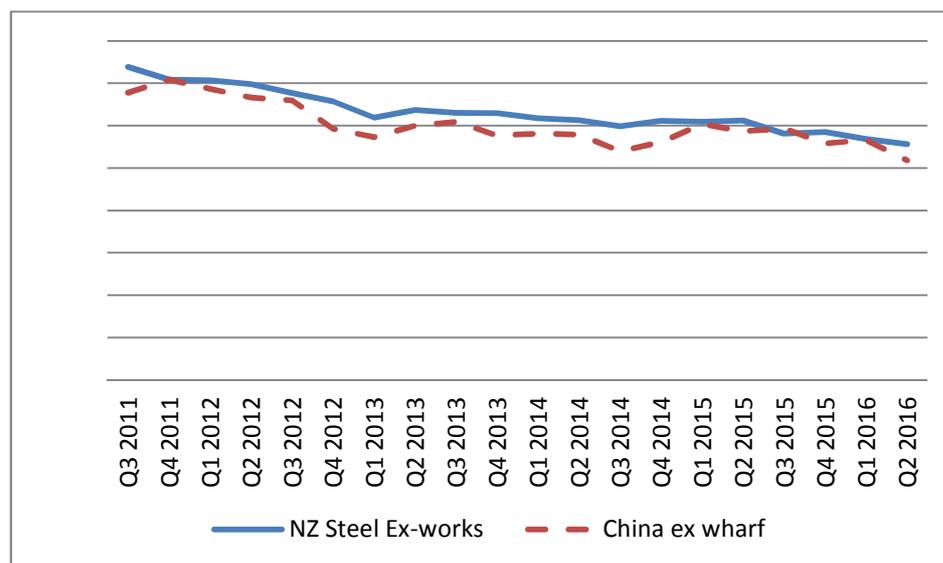
475. The assessment of the injury factors in section 5 above includes discussion of the causal relationships of subsidised imports on volume and price effects and the consequent impact on the domestic industry, on the basis of the subsidy levels established on the basis outlined in section 4.
476. The conclusions reached with regard to price effects is that there is evidence of price undercutting by imports from China, and there is also evidence that the domestic industry has experienced price depression and price suppression. MBIE has also concluded that there has been an actual decline in profits which correlates significantly with and can be attributed to price undercutting, price depression and price suppression. The price effects and the decline in profits have also affected the return on capital, cash flow and the ability to raise capital. However, based on the subsidy levels established, the conclusion is that material injury to an industry is not being caused by goods that are subsidised.

6.2 Other Causes of Injury

6.2.1 Non-subsidised Imports

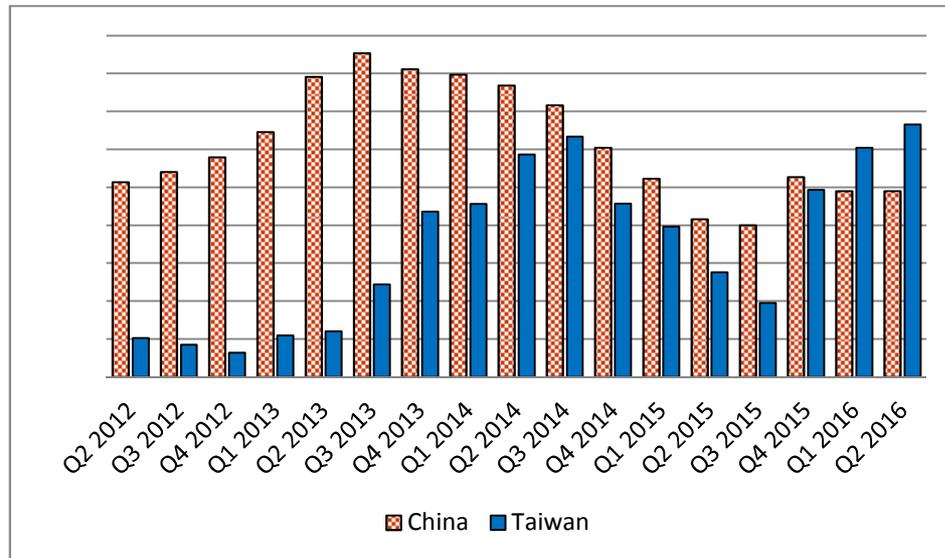
477. Imports that are not subsidised also have the potential to cause injury to the New Zealand industry.
478. As noted in the Initiation Report, there was a significant decrease in the volume of imports subject to customs duties in 2014 and 2015 compared with the earlier part of the period reviewed. This was a result of concessionary duty free entry being provided for building materials in 2014, and the removal of duties from several countries as free trade agreements entered into force. Imports from China became free of duty in 2012, imports from Taiwan became free of duty from December 2013 and from Korea from December 2015. Imports from Japan and Korea, once the non-competing goods have been accounted for, are not significant, and in Japan's case are primarily goods entering under other concessions, and therefore likely to also be non-competing goods.
479. The following graph provides a price comparison, with rolling twelve month average prices for imports from China and Taiwan (the other major supplier of imports), based on NZD VFD values adjusted by adding provision for freight and landing costs to provide an ex-wharf comparison with NZ Steel's ex-factory price.

Figure 3: Price Comparisons - Imports from China and Taiwan vs NZ Steel
Rolling twelve month averages - NZD/tonne



480. The graph below shows the volume of imports from China and Taiwan on the same rolling twelve month basis. Note that these figures do not include any adjustment to reflect the revised like goods description described in section 2.2.1 of this report.

**Figure 4: Imports from China and Taiwan from 2012-2016: Rolling twelve month totals
Tonnes**



481. The information available indicates that for most of the period Q4-2012 to Q2-2016, prices of the subject goods from Taiwan have tended to be above prices from China, and that imports from Taiwan have increased over the last twelve months in the period, with prices above those of NZ Steel. The conclusion is that imports of non-subsidised goods from sources other than China are not likely to be a cause of injury to the domestic industry through price effects. Note that this table does not reflect the revised definition of subject goods.
482. Responses to Importer’s Questionnaires have noted that prices for Chinese steel are not dissimilar to those from other countries around the world.
483. It should be noted that while MBIE has concluded that material injury cannot be attributed to the subsidisation of imports of galvanised steel coil from China, MBIE has also concluded that such imports have had price effects with a consequent impact on the domestic industry. This suggests that factors other than subsidisation may be responsible.

6.2.2 Contraction in demand or changes in the patterns of consumption

484. Changes in the pattern of consumption or a reduction in demand can also be a potential cause of material injury to the New Zealand industry.
485. MBIE notes that demand for building materials in New Zealand has increased as a result of increased building activity, and this view was echoed in some responses to Importer’s Questionnaires. This growth applies to both the residential and commercial building sectors as housing demand continues to rise, earthquake-related rebuild activity continues, and infrastructure projects are implemented. However, other responses noted that there were no major changes in demand or patterns of consumption in recent years.
486. Figures for domestic production and imports suggest that there is no reduction in demand, and the pattern of consumption suggests that sales of galvanised steel coil will continue to grow. Accordingly, this factor is not a cause of injury to the domestic industry.

6.2.3 Restrictive Trade Practices and Competition

487. Restrictive trade practices of overseas or New Zealand producers, such as price ceilings, other statutory measures, or exclusive dealer arrangements, can negatively affect the financial position of New Zealand manufacturers when they are not the beneficiaries of the restrictions. Competition between overseas and New Zealand producers of galvanised steel coil can be a cause of material injury independent of any subsidisation. For example, the existence of a price war or the constant threat of new competitors to the New Zealand market can cause a fiercely competitive environment where it is difficult for a New Zealand manufacturer to make a positive return.
488. Imports generally use the same distribution processes as domestic sales. Importer's Questionnaire responses suggested that because New Zealand is a small market, which is price sensitive and requires a high quality standard, there might be difficulties for a new importer to enter the market.
489. MBIE notes that there is only one domestic producer, but the availability of competition from imports mitigates the potential monopoly effect. MBIE is satisfied that there are no restrictive trade practices in the New Zealand market, and that a competitive market exists.

6.2.4 Developments in Technology

490. NZ Steel has made no comment on these matters other than to note that coating weight (uniformity and tolerance) is an area of focus in the galvanised steel coil sector.
491. One importer noted that a factor affecting the market could be downstream manufacturers' changing preferences for alternative steel qualities, such as stainless steel and aluminium. MBIE concludes that while there may be some shifts in customer preferences over time, this is not expected to be a contributor to injury to the production of galvanised steel coil.

6.2.5 Export Performance and Productivity of New Zealand Producers

492. Export performance and productivity of the New Zealand industry can be a cause of injury if its export performance is at the expense of its domestic performance.
493. NZ Steel exports galvanised steel coil to [REDACTED] and [REDACTED]. NZ Steel provided details of export sales, by quarter, for calendar years 2013-2015, in terms of volumes and value. These sales make up a significant proportion of total sales in this period (in FY2014 NZ Steel's export volume represented [REDACTED] per cent of total sales, by volume).
494. NZ Steel does not consider that it has been injured by its export performance or its productivity. NZ Steel has noted that it has conducted an extensive cost reduction programme over the last eighteen months and has taken tens of millions of dollars of costs out of its business, including substantial costs taken out of the MCL business unit.
495. MBIE concludes that the export performance and productivity of NZ Steel has not been an injury factor.

6.2.6 Imports by the Industry

496. MBIE is required to assess the nature and extent of importation of subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

497. NZ Steel has made no imports of the subject goods during the period investigated.

6.3 Conclusions on Other Causes of Injury

498. MBIE concludes that on the basis of the information available to this point in the investigation injury caused by the factors discussed above is not being attributed to subsidised imports.

7. Conclusions

499. On the basis of the best information available to MBIE that it considers reliable, with regard to imports of galvanised steel coil from China MBIE does not consider that material injury has been caused to the domestic industry by reason of goods being subsidised.

Annex One: Like goods consideration

Key issues and findings

1. During the investigation into alleged subsidisation of galvanised steel coil from China, some interested parties submitted concerns with the goods description. The concerns can be captured into two categories:
 - a. Spangle finish
 - b. Width
2. In relation to both concerns outlined above, interested parties submitted that the New Zealand industry does not produce goods to the specification required, or desired.
3. In response to each of the concerns, the New Zealand industry submitted against any exclusion or refinement of the goods description.
4. The sections below outline MBIE's investigation process in arriving at the recommendation for this like goods analysis.

Recommendations

5. MBIE recommends that:
 - a. The goods description is not changed to account for differences in spangled finishes
 - b. That the goods description is limited to goods with a width up to 1260mm.
6. Therefore, MBIE proposes that the new goods description should read as:

Galvanised steel coil with a thickness equal to or greater than 0.3mm and less than or equal to 1.9mm, and a width greater than 600mm but not greater than 1260mm, with a hot dipped galvanised (zinc) coating.

Process

7. Following initiation of the investigation into alleged subsidisation of galvanised steel coil from China, MBIE circulated questionnaires to interested parties. Those interested parties included importers, exporters, manufacturers and the government of China.
8. In their responses to the questionnaires (hereafter "submissions"), a number of interested parties submitted that goods that they were trading were not being produced by the domestic industry, therefore should not be subject to the investigation.
9. Interested parties raised two concerns in particular that are important for this like goods analysis: spangle finish and width of the subject goods. Those submissions are summarised in the paragraphs below.
10. At the domestic verification visit, MBIE indicated to NZ Steel that some interested parties had raised those two concerns, and gave it an opportunity to comment on the matter. NZ

Steel spoke on the matter at the domestic verification visit, and later made a written submission to support its position⁵⁰.

11. The NZ Steel submission and comments at the domestic verification visit are summarised below.

Galvanised steel coil produced by New Zealand Steel

12. The *Dumping and Countervailing Duties Act 1988* defines like goods as:

Like goods, in relation to any goods, means -

- (a) Other goods that are like those goods in all respects; or
- (b) In the absence of goods referred to in paragraph (a) of this definition, goods which have characteristics closely resembling those goods.

13. In its application, NZ Steel submitted that the goods produced by the New Zealand industry are like the allegedly subsidised goods: those subject to this investigation:

Physical characteristics

Products made locally by NZS have the same physical characteristics as the allegedly subsidised goods from PRC. NZS' locally produced galvanised steel and the allegedly subsidised galvanised steel are manufactured to the same Australian Standard (AS1397).

Production methods for the locally produced products and the allegedly subsidised goods from PRC are substantially similar.

Function and usage

Both the locally produced and allegedly subsidised goods have comparable or identical end uses. Common (but not exclusive) uses of the products include general manufacturing, cladding, structural elements in building and construction, frames, heating and ventilation.

Submitters' claims

14. During the investigation six interested parties submitted evidence or comment in respect of the like goods consideration that NZ Steel had made in its application, or noted that they trade in a product that NZ Steel does not produce:
- a. Stemcor
 - b. Easy Steel
 - c. CMC
 - d. Steel and Tube
 - e. Vulcan

⁵⁰ NZ Steel goods submission, received 28 March 2017: Public file document 153

- f. 
- 15. Submitters raised two key issues in relation to like goods:
 - a. NZ Steel does not produce variations of spangle finish
 - b. NZ Steel cannot produce galvanised steel coil wider than 1230mm.
- 16. MBIE has considered each of those concerns individually and outlined its findings in the sections below.

Spangle

CMC submission

- 17. CMC submitted that some of the products that it was selling to New Zealand importers cannot be produced by the New Zealand industry. Particularly, CMC referred to spangle on a galvanised surface.
- 18. CMC noted to MBIE that there are three common types of spangle in the market for galvanised steel. It provided MBIE with an explanation of the characteristics of each of those types summarised below:
 - a. Regular/normal spangle: Crystal structure and gloss caused by the unrestricted growth of zinc crystals at ambient temperature during normal solidification.
 - b. Minimised spangle: crystals smaller than regular spangle due to the restricted growth of zinc crystals during normal solidification. More uniform surface and easier to paint compared to regular spangle.
 - c. Zero spangle: complete suppression of the growth of zinc crystals during solidification. Uniform surface, easier to paint.
- 19. MBIE understands that the zero spangle is commonly used where the galvanised steel is exposed on a product, particularly where a uniform cosmetic appearance is desirable.
- 20. Further, MBIE understands that the surface spangle does not affect the performance of the galvanised steel and that the various levels of spangle are chosen on cosmetic grounds only.

NZ Steel submissions

- 21. NZ Steel acknowledges that it is currently unable to produce minimised, or zero spangle galvanised steel. The company is currently only able to produce regular/normal spangle.
- 22. At the domestic verification visit, NZ Steel noted that it could, over time, decrease spangle by changing the chemical compounds in its molten zinc dipping baths. However, NZ Steel noted that it would not make sense to do so as it does not believe that the market demand for minimised, or zero spangle galvanised steel is sufficiently large to warrant a change to its production processes.
- 23. NZ Steel commented that minimised, and zero spangle galvanised steel is directly substitutable for regular spangle steel, in most cases. It noted that there may be examples

where a manufacturer of a particular product would demand a zero spangle finish, but these would be on aesthetic, cosmetic grounds only.

24. NZ Steel expressed concern in exempting minimised and zero spangle galvanised steel from this investigation. It stated that to do so would create a market distortion whereby users of galvanised steel will likely substitute normal/regular spangle for the minimised or zero spangle steel, which may not be subject to a countervailing duty.
25. In a follow up to the domestic verification visit, NZ Steel submitted on 6 March 2017 that:

... zero and normal spangle is priced the same and are considered by [NZ Steel] to be substitutable, but some customers indicate a preference for zero on aesthetic grounds. The majority of [galvanised steel] coil is consumed in situation which can be seen (but does not involve an aesthetic factor), or cannot be seen at all (and thus does not involve an aesthetic factor).
26. In a further submission on 28 March 2017, NZ Steel highlighted to MBIE some Australian guidance on zero spangle galvanised steel coil. NZ Steel pointed to the Australian Customs and Border Protection Report 193, noting that the Australian Anti-Dumping Commission stated that:

ACBPS considers zero spangle finish falls within the goods description for the investigation, provided it meets the other specifications stated in the goods description (for example, galvanised coating).
27. In that 28 March submission, NZ Steel also notes that the Australian domestic industry, in this case, BlueScope, does not produce galvanised steel coil with a zero spangle finish. NZ Steel quoted a BlueScope submission to the ACBPS:

Whilst BlueScope does not currently produce zero spangle steel specifically for use in motor vehicle panel exteriors, BlueScope may seek to produce like goods at some time in the future. BlueScope requests the applicant company requesting an exemption from dumping measures for zero spangled galvanized steel used exclusively in motor vehicle exposed skin panels, provide details of the galvanised steel specifications for the required end use to ensure that there is no substitutability with the minimal spangle galvanized steel that is manufactured locally by BlueScope. Further, BlueScope is concerned of possible circumvention of any exemption granted that permits the use of zero spangle galvanized steel in non motor vehicle applications eg. for use as purlins as currently supplied by BlueScope.
28. NZ Steel noted that the outcome of the aforementioned Australian investigation (193) is that zero spangle galvanised Chinese coil for non-motor vehicle exposed skin panel application is subject to countervailing duties.
29. MBIE understands that ACBPS made a specific exclusion for zero spangle galvanised steel where the stated use is for the manufacture of motor vehicles, and that this exemption was made after the final determination.

MBIE consideration

30. The issue for consideration is whether or not imports of minimised and zero spangle galvanised steel are like that product produced by the domestic industry, which is exclusively produced and sold as regular spangle.
31. Two factors in particular are important in this case: *commercial interchangeability* and *the manufacturing methods* of minimised and zero spangle in relation to regular spangle galvanised steel.
32. Particularly, MBIE consideration focuses on the fact that the NZ Industry does not produce minimised and zero spangle galvanised steel, and whether or not there is a commercially sensible substitutability between galvanised steel with different spangle finish.
33. Of the imports from China over the period of investigation for which information is available on spangle, around  per cent was zero spangle.

Exemptions

34. MBIE notes the ACBPS decision to exclude imports of zero spangle galvanised steel from countervailing duties, where the imports are intended for manufacture of motor vehicles. There is no commercial manufacture of motor vehicles in New Zealand.
35. MBIE notes that the New Zealand Act does not envisage exclusion of payment of anti-dumping duties if the goods on which the payment has been made are subject to the duties. Therefore the way to exempt certain products from payment of anti-dumping duties, should they be imposed, would be through the goods description in the customs order.
36. Describing subject goods on the basis of intended use leads to challenges in practicality and enforcement. Simply, there would be no sensible way for the government to ensure that the intended use of the goods imported was accurately declared. For these reasons, MBIE considers it inappropriate to describe the subject goods on the basis of intended use.

Manufacturing methods

37. In its submissions, NZ Steel noted that it could reduce or eliminate the spangle on its finished product by adding certain chemical compounds to the molten zinc bath to suppress the zinc crystal formation. NZ Steel noted that the visible spangle would reduce over a period of time as the balance of material in the molten zinc bath adjusts.
38. NZ Steel noted that while it could reduce the spangle on its finished product with minimal additional cost to production, it has chosen not to. NZ Steel commented that only a very small segment of the market for galvanised steel demands minimised or zero spangle.
39. MBIE is satisfied that, while the domestic industry does not currently produce zero/minimal spangle product, the differences in the manufacturing methods between galvanised steel with regular spangle and minimised or zero spangle are insignificant and that NZ Steel could produce the product under certain circumstances.

Commercial interchangeability

40. The question then turns to the extent to which minimised and zero spangle galvanised steel is commercially interchangeable with regular spangle.
41. MBIE notes that there are likely to be cases in New Zealand manufacturing where zero spangle galvanised steel is specifically demanded for aesthetic reasons. MBIE has not received any submissions illustrating examples of specific demand for zero-spangle galvanised steel.
42. Three submitters (Vulcan, CMC, [REDACTED]) noted that they import or trade in galvanised steel coil with a zero spangle finish, and that they did so because NZ Steel does not produce galvanised steel coil with zero-spangle finish.
43. MBIE also understands that in some cases, manufacturers prefer galvanised steel with regular spangle, on aesthetic grounds.
44. Commercial interchangeability also considers the extent to which downstream industries and consumers would likely substitute importing different spangle specifications in the event that one type was subject to duties.
45. Given that spangle variations appear to have cosmetic properties only, it seems reasonable to assume that users of galvanised steel coil will be indifferent between the various spangle finishes where the end product is not visible on the completed product.
46. MBIE considers that there is not likely to be a price difference between the various spangle finishes, at least not to an importer which would be purchasing on a world market with many supply opportunities.
47. A countervailing duty that is restricted to regular-spangle galvanised steel only, will likely lead to direct substitutions in importers purchasing decisions, thus restricting the effectiveness of the duty in correcting any potential injury.
48. Therefore MBIE concludes that for the purpose of this investigation, galvanised steel coil of all spangle finishes are considered within scope of the goods under investigation.

Widths

49. NZ Steel can produce galvanised steel coil up to 1260mm wide, depending on the corresponding thickness and grade of that steel.
50. Of the imports from China for which information on widths is available, 48 per cent of the goods imported that otherwise meet the goods description during the period of the investigation, have widths greater than 1260mm, thus outside NZ Steel's production capabilities.

Submissions

51. Three importers (Vulcan, Easy Steel, Steel and Tube), and two exporters (Stemcor, CMC) submitted that they trade in galvanised steel coil with widths greater than what NZ Steel is capable of producing. Each of these importers supplied commercial invoices and other documentation to confirm this.

52. All three importers above, that mention that they import wider galvanised steel coils, are also major customers of NZ Steel.

Vulcan

53. In its submission to the investigation, Vulcan specifically notes that it only imports galvanised steel coil that is outside of NZ Steel's production capability range. Vulcan imports galvanised steel coil that is 1525mm wide.
54. Vulcan specifically points to the width as a key issue for MBIE to consider when deciding whether or not to impose countervailing duties.

Easy Steel

55. Easy Steel notes that it imports steel that falls beyond NZ Steel's production capability. Easy Steel particularly notes that it imports galvanised steel coil with widths between 1219mm (within range of NZ Steel's capabilities) and 1524mm.

Steel and Tube

56. Steel and Tube notes that it imports galvanised steel coil from China that is 1524mm wide, which is beyond the production capability of NZ Steel.

CMC

57. CMC notes that NZ Steel has a maximum width of 1250mm and that a large proportion of its exports to New Zealand fall outside NZ Steel's production capabilities.

Stemcor

58. Stemcor also notes that it sells galvanised steel coil that falls outside of NZ Steel's production capabilities.
59. Stemcor comments that it is not aware of the end function or use for the product.

NZ Steel submission

60. NZ Steel made a submission on 28 March 2017 to comment on the goods description within the investigation.
61. In that submission, NZ Steel notes:
- ... some goods with width specifications outside the [NZ Steel] width specifications are like goods due to possible substitutability, and because of commercial likeness – that is, the pricing of wider goods [sic] is connected to pricing of narrower goods.*
62. NZ Steel suggests that MBIE should assess each case on its own particular circumstances.
63. NZ Steel submits that MBIE should consider price continuity between goods of varying dimensional boundaries, as the Canadian International Trade Tribunal (CITT) did in case NQ-2015-002 in March 2016.
64. Further NZ Steel notes that the CITT indicates that the onus is on the requestor to demonstrate that the product it requests to be excluded from duties is not likely to be injurious to the domestic industry.

MBIE consideration

65. In its like goods analysis MBIE has considered the following key factors in reaching its conclusion:
- a. NZ Steel's argument for the use of exclusions in the goods description and the argument that the onus should be on the requestor for such exclusions
 - b. The manufacturing methods for producing galvanised steel coil to different widths
 - c. The commercial interchangeability between galvanised steel coil of differing widths.
66. MBIE stresses that its conclusion is based on all of the considerations described below, and that no single point should determine whether or not certain goods should be considered to be within the scope of the subject goods or not.

Exclusions and the onus of proof

67. MBIE notes the argument that NZ Steel puts forward in citing the CITT case mentioned above. MBIE understands that that argument can be summarised for this case as:

Some goods with width specifications outside NZ Steel production capability are like goods due to possible substitutability and commercial likeness. The onus is on the importers, exporters or foreign manufacturers of galvanised steel coil from China, to prove to MBIE that such goods, when exported to New Zealand, are not causing injury to the domestic industry therefore should be excluded from the imposition of duties.

68. MBIE notes that the Act does not provide for the above onus of proof. Instead, MBIE's position is that it makes an assessment with all of the information that it has available to it during the investigation, including on matters relating to like goods.
69. It is likely that the CITT drew its conclusion about the onus of proof on like goods under different domestic legislative settings and trade remedies practices than MBIE. MBIE considers the information gathered throughout the investigation on its individual merits and makes its recommendations on balance after considering the whole of the information available to it.
70. MBIE considers that interested parties have sufficient opportunity to make their positions heard throughout the investigation. Further, MBIE considers that there is no onus of proof for any position throughout the investigation in the manner apparent under the Canadian approach.

Manufacturing methods

71. MBIE notes the range of submissions that it received from both NZ Steel and other interested parties.
72. NZ Steel does not refute that it produces galvanised steel coil only up to approximately 1260mm wide (depending on the corresponding grade and thickness).
73. MBIE quizzed NZ Steel about its production capabilities, particularly in relation to wider galvanised steel products.

74. NZ Steel notes that it is physically constrained to producing galvanised steel coil to a maximum width of 1260mm. This is because the metal coating line factory has physical constraints that can't easily be overcome (such as factory foundations).
75. MBIE discussed with NZ Steel what it would take to start producing galvanised steel coil in wider specifications. NZ Steel noted that it would require significant capital investment to widen the factory.
76. MBIE concludes that the manufacturing methods between the goods that NZ Steel produces, and those of greater widths, have sufficiently different manufacturing methods such that galvanised steel coil with widths greater than 1260mm should not be considered like those produced domestically.
77. MBIE's position above is based on the conclusion that NZ Steel cannot produce galvanised steel coil wider than 1260mm, and it would require significant capital investment to start producing wider coils.

Price continuity/connectivity

78. MBIE understands that there are specific cases where wider galvanised steel coil (such as 1500mm or 1800mm) would be needed, and where narrower steel would be unacceptable. NZ Steel argues that these goods should be included in the product scope and subject to duties.
79. NZ Steel provided air conditioning ducts as an example. This would be where an air conditioning duct is, say 1500mm in perimeter, requiring 1500mm wide galvanised steel coil. The manufacturers of the ducts could use narrower coil, but it would require multiple welded seams in the metal, which is undesirable.
80. However, NZ Steel also notes that a large portion of the galvanised steel coil that is produced in New Zealand, or imported, is processed by slitting. Slitting refers to the steel being cut length-ways to manufacture narrower cuts of galvanised steel.
81. NZ Steel notes that where a firm wants galvanised steel, say 300mm wide, it could conceivably import 1500mm wide steel (avoiding potential countervailing duties) and slit it into 5 sheets. This would be in direct competition, therefore price-connected, to 1200mm wide steel, which would be slit to 4 sheets.
82. MBIE accepts there would likely be some price connectivity between galvanised steel coil at varying widths under these circumstances.
83. MBIE also accepts that there would likely be some price-connectivity between the galvanised steel that NZ Steel produces, and other substitutable products. For example, MBIE understands that galvanised steel coil can be used to produce steel-framing for residential construction. Therefore, MBIE accepts that there is likely to be substitutability between the price of timber, and the price of galvanised steel coil.
84. Particularly, MBIE concludes that there is price-connectivity between the steel that NZ Steel produces, and a wide range of other product. As such, price-connectivity in itself is not adequate for determining the scope of the goods under investigation and in particular what goods should and should not fall within the scope.

Commercial interchangeability

85. Based on the assessment above, MBIE concludes that there is a level of commercial interchangeability between the wider steel, and that which NZ Steel produces. MBIE considers that the interchangeability is broadly limited to where the steel is further processed into narrower products.
86. As noted above, there are also likely to be cases where wider steel has specific applications that cannot be easily interchanged with narrower steel.
87. MBIE concludes that there is likely to be some level of commercial interchangeability between galvanised steel coil that NZ Steel produces, and the wider steel that it can't produce. This interchangeability is limited to certain intended uses of the steel in further manufacturing, and does not in itself determine that the goods description should include the wider steel.

Conclusion

88. To summarise, MBIE notes that:
 - a. There are notable manufacturing differences between the steel that NZ Steel produces, and the wider products which are currently within product scope.
 - b. There is likely to be price connectivity between the wider steel, and that which NZ Steel produces but that this price connectivity likely extends to a range of substitutable products indicating that price connectivity is not a deciding factor in deciding if product is within scope.
 - c. There is some level of commercial interchangeability between the wider steel, and that which NZ Steel produces but that this is likely limited to specific intended uses of the steel in further manufacturing.
89. On balance, MBIE recommends that the goods description for the purposes of this investigation is changed to limit the width of the galvanised steel coil under investigation to a maximum 1260mm, reflecting NZ Steel's production capability.
90. MBIE considers that the fact that the domestic industry is unable to produce galvanised steel coil wider than 1260mm, and that there are specific uses for wider steel, is sufficient grounds to limit the goods description to the widths that NZ Steel is capable of producing.
91. MBIE considers that this determination is not outweighed by the price connectivity that is likely to exist between the steel wider and narrower than 1260mm, and the limited commercial interchangeability where the steel is further processed to narrower sheets.
92. The conclusion reached by MBIE is that, for the reasons outlined above, galvanised steel coil of widths greater than 1260mm does not closely resemble lesser widths, so the latter are not like goods to the former, and the definition of the subject goods should be limited to galvanised steel coil of widths of 1260mm or less.