



NON-CONFIDENTIAL



Initiation Report: Application for Countervailing Duties

Galvanised Steel Coil from China

December 2016

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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 For example, in tables the actual figures have been replaced by figures showing percentage changes from the previous period.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.

Abbreviations

This report contains the following abbreviations:

Act, the	The <i>Dumping and Countervailing Duties Act 1988</i>
Anti-Dumping Agreement, the	The WTO Agreement on Implementation of Article VI of the GATT
ASX	Australian Stock Exchange
Australian ADC	Australian Anti-Dumping Commission
BlueScope	BlueScope Steel Limited
China	People's Republic of China
CIF	Cost, Insurance, Freight
CNY	Chinese Yuan
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Taxes
FIS	Free in Store
FOB	Free on Board
FTA	Free Trade Agreement
GATT 1994	General Agreement on Tariffs and Trade 1994
GOC	Government of China
HS Code	Harmonized System of tariff nomenclature code number
ITA	United States Department of Commerce International Trade Administration
MBIE	Ministry of Business, Innovation and Employment
MCL	Metal coated line
NZ	New Zealand
NZD	New Zealand Dollar
NZ Steel	New Zealand Steel limited
Subsidies Agreement, the	The WTO Agreement on Subsidies and Countervailing Measures
US DOC	United States Department of Commerce
USD	United States Dollar
VFD	Value for Duty
WTO	World Trade Organisation

Executive Summary

Introduction

1. On 26 September 2016, the Ministry of Business, Innovation and Employment (MBIE) accepted a properly documented application for countervailing duties on imports of galvanised steel coil from the People's Republic of China (China). The application was submitted by New Zealand Steel (NZ) Limited (NZ Steel). NZ Steel claimed that imports of Chinese steel coil are being subsidised by the Government of China (GOC) and have caused material injury to the New Zealand industry.
2. The initiation of an investigation is provided for in section 10 of the *Dumping and Countervailing Duties Act 1988* (the Act). Under section 10 of the Act, MBIE's Chief Executive may initiate an investigation to determine the existence and effect of any alleged subsidisation of any goods on being satisfied that sufficient evidence has been provided that the goods are being subsidised and, by reason thereof, material injury has been or is being caused or is threatened.
3. This report therefore assesses the accuracy and adequacy of the evidence provided in terms of the criteria in section 10 of the Act to establish whether there is sufficient evidence to justify initiating an investigation, and provides a basis for a decision to be made on whether or not to initiate an investigation.

Goods Subject to the Application

4. The imported goods covered by the application 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, with a hot dipped galvanised (zinc) coating.

Standing to make an Application

5. The application was made by NZ Steel, which stated that it is the only producer of galvanised steel coil in New Zealand. 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.

Subsidisation

6. NZ Steel has provided sufficient evidence of subsidisation of Chinese galvanised steel coil producers by the GOC to support a decision by the Secretary to initiate an investigation.
7. The evidence of subsidisation submitted by NZ Steel consisted mainly of information sourced from subsidy applications made by steel industries in other countries, and resulting subsidy investigations, which found that the GOC was subsidising Chinese steel producers to the detriment of their domestic producers.
8. During consultations between the New Zealand government and the GOC, under section 10(9) of the Act and Article 13.1 of the World Trade Organisation (WTO) Agreement on Subsidies and Countervailing Measures (the Subsidies Agreement), the GOC raised a number of

concerns over the matters raised in the application. Where appropriate, MBIE has addressed these concerns in this report.

Material Injury

9. Before initiating a subsidy investigation, MBIE must be satisfied that any subsidisation of galvanised steel coil exported to New Zealand from China is causing 'material injury' to NZ Steel.
10. Material injury is not defined in the Act, or the Subsidies Agreement, but is taken to mean injury of a reasonably significant nature. It is the level of injury which can be demonstrated as material by an objective and unbiased investigating authority on the basis of an assessment of the factors set out in section 8 of the Act, and in the context of the circumstances of the industry concerned. Injury is normally analysed in terms of how an industry has performed financially, over time, especially in competition with the allegedly subsidised imports.
11. MBIE has analysed the information provided by NZ Steel and considers it has provided sufficient evidence that it is incurring material injury from the subsidisation of Chinese galvanised steel coil producers to support a decision by the Chief Executive to initiate an investigation.
12. This decision is based on NZ Steel's financial information for the calendar years 2012-2015.
13. MBIE considers that there is sufficient evidence to show that:
 - Imports of subsidised galvanised steel coil from China have been undercutting NZ Steel's prices.
 - Imports of subsidised galvanised steel coil from China have caused price depression, in that NZ Steel's average prices have decreased over the period.
 - Imports of subsidised galvanised steel coil from China have caused price suppression to the extent that NZ Steel has not been able to recover cost increases.
 - As a consequence of these price effects NZ Steel has suffered from a decline in profits over the period.
 - As a consequence of the price effects NZ Steel has suffered impaired returns on investments and its ability to raise capital.
14. However, MBIE considers that there is insufficient evidence to show that:
 - There has been a significant increase in the volume of Chinese imports in absolute terms or when compared to either domestic production or consumption in New Zealand.
 - NZ Steel has suffered a decline in total sales volume or total sales revenue over the period.
 - NZ Steel has experienced a decline in market share that can be attributed to subsidised imports from China.

Conclusion

15. On the totality of the information provided by NZ Steel, including information reasonably available to it, MBIE is satisfied that the company has provided sufficient evidence to warrant initiating an investigation. That is, in terms of section 10 of the Act, there is sufficient evidence to show that, for the purpose of initiating an investigation, imports of galvanised steel coil from China are being subsidised and are causing material injury to the New Zealand industry.

Recommendation

16. This report recommends that the General Manager, Science, Innovation and International, acting under delegated authority from the Chief Executive, decide to initiate an investigation to determine both the existence and effect of any subsidisation of galvanised steel coil from China.

Request for Provisional Measures

17. NZ Steel is seeking the imposition of provisional countervailing duties. Provisional measures may be applied if certain conditions are met at any time after 60 days from the date on which an investigation has been initiated in order to prevent material injury being caused during the period of investigation

1 Introduction

1.1 Application

17. On 2 September 2016, MBIE received an application for countervailing duties to be imposed on galvanised steel coil from China. The application was submitted by NZ Steel, the sole producer of galvanised steel coil in New Zealand.
18. On 26 September 2016, MBIE accepted NZ Steel's application for countervailing duties on galvanised steel coil from China as properly documented.
19. Under section 10 of the the Act, MBIE's Chief Executive¹ may initiate an investigation to determine the existence and effect of any alleged subsidisation of any goods on being satisfied that sufficient evidence has been provided that the goods are being subsidised and, by reason thereof, material injury has been or is being caused or is threatened.
20. Article 11 of the Subsidies Agreement deals with the initiation of an investigation, and requires that any application include sufficient evidence of a subsidy, and its amount; injury to a domestic industry in competition with the subsidised imports; and a causal link between the subsidised imports and the alleged injury. Article 11 also sets out the kind of evidence, reasonably available to the applicant, that is required, and states at Article 11.2 that "Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements for initiation." Article 11.3 requires investigating authorities "to review the accuracy and adequacy of the evidence provided in the application to determine whether the evidence is sufficient to justify the initiation of an investigation."
21. With regard to the sufficiency of evidence, MBIE takes guidance from the 1988 judicial review case of *Kerry (New Zealand) Ltd v Comptroller of Customs* in which Gault J said that in order to initiate a dumping investigation, the authority must be satisfied "that there is evidence beyond a mere assertion and of a nature and extent that indicate a likelihood of dumping and material injury, requiring investigation." The Court also found that "the evidence should be scrutinised with due scepticism, bearing in mind the commercial context," but emphasised that the assessment is one of sufficiency of evidence, not of dumping². MBIE considers this ruling is as relevant to a countervailing duties application as it is to a dumping application.
22. This report assesses, against the requirements in the Act, the application submitted by NZ Steel for an investigation into alleged subsidisation of galvanised steel coil imported from China. The report outlines the basis for determining if sufficient evidence has been presented to justify the initiation of a subsidy investigation according to section 10 of the Act.

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 (1988) 3 TCRL 265 at page 17.

23. Subsidies are defined in section 3(1) of the Act and are essentially any financial or commercial benefit supplied by a government, to the foreign producers of the exported good. MBIE's consideration is also subject to the Subsidies Agreement, which outlines how countries should conduct investigations into subsidised imports, including consulting the relevant government.
24. NZ Steel claims that the alleged subsidisation of galvanised steel coil from China is causing the company material injury through:
- increased imports
 - price undercutting
 - price depression
 - price suppression

resulting in:

- a decline in profits
- a decline in return on invested capital
- a decline in ability to raise capital.

1.2 Consultations with the Government of China

25. Section 10(9) of the Act requires the Secretary to notify the Government of China of the goods that are the subject of the proposed investigation, and give that Government a reasonable opportunity for consultations with the aim of clarifying the situation and arriving at a mutually agreed solution.
26. On 20 October 2016, MBIE informed the GOC that it had accepted a properly documented application for countervailing duties and invited it to enter into consultations under Article 13.1 of the Subsidies Agreement. Article 13.1 of the Subsidies Agreement states:
- As soon as possible after an application under Article 11 is accepted, and in any event before the initiation of any investigation, Members the products of which may be subject to such investigation shall be invited for consultations with the aim of clarifying the situation as to the matters referred to in paragraph 2 of Article 11 and arriving at a mutually agreed solution.
27. On 30 November 2016 consultations took place between officials from New Zealand and the Chinese Ministry of Commerce (MOFCOM). Ahead of the consultations MBIE provided MOFCOM with a non-confidential version of NZ Steel's application, and two days before the meeting provided non-confidential versions of supplementary information provided by NZ Steel.
28. During the meeting MOFCOM outlined its concerns with matters raised in the application, and agreed to provide written comments by 14 December 2016, including comments on the supplementary information.
29. Appendix One summarises MOFCOM's key concerns with NZ Steel's application as set out in its written comments. MBIE has addressed these concerns in this report, where relevant.

1.3 Investigation

1.3.1 Investigation Period

30. This report recommends that an investigation be initiated. The information in the application relates to calendar year, although NZ Steel's accounting year is to June 30. MBIE's preferred approach is to use the most recent year for which data is available, so would use the year ended June 2016 as the investigation period, and would compare information from that year with information from the period since 2011 in assessing injury.
31. Any final determination of whether or not goods are subsidised and causing injury can be made only after a full investigation has been carried out in accordance with the Act and in light of New Zealand's obligations under the Subsidies Agreement.

1.3.2 Date for Submissions

32. Exporters and importers and the GOC will be directly invited to make submissions and provide responses to questionnaires. Importers will be given 30 days and exporters and manufacturers and the GOC will be given 37 days to respond to questionnaires.
33. All interested parties are entitled to make submissions in any investigation. Submissions can be made to: Trade and Regulatory Cooperation, Ministry of Business, Innovation and Employment, PO Box 1473, Wellington 6011, New Zealand, or by email at traderem@mbie.govt.nz.

1.4 Imported Goods

34. The imported goods that are the subject of the application (the subject goods) 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.

35. The subject goods and tariff classification of the subject goods are described as follows:

Description	New Zealand Steel Limited product name	Tariff classification
0.3mm to 1.6mm thick steel coil (width > 600mm) with a hot dipped galvanised (zinc) coating. Produced to AS1397 ³ Galvanised coated steel is also produced in accordance with a number of other International Standards: <ul style="list-style-type: none"> • ASTM A653/A653M 	Galvanised steel coil	7210.49.31.09 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)

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.

<ul style="list-style-type: none"> • 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>		
<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>	<p>Galvanised steel coil</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>

36. The applicant 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.
37. The subject goods fall under the following New Zealand Customs Service (Customs) tariff items and statistical keys⁴:
 - 7210.49.31.01
 - 7210.49.31.09
38. NZ Steel claims that in late 2015 zinc, aluminium, magnesium alloy-coated steel was included in the tariff item, whereas previously this product was imported under 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. These matters will need to be clarified in any investigation.

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 Harmonised System (HS).

1.5 Like goods

39. In order 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.
40. 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.
41. The scope of the subject goods is defined in section 1.4 above.
42. 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.
43. NZ Steel has clarified⁵ that it manufactures galvanised steel with dimensions of thickness 0.32 to 1.85mm, widths from 600mm to 1230mm, 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 AS1397.⁶
44. 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 following grounds:
- Physical Characteristics*
45. 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*
46. Production methods for the locally produced steel coil and the allegedly subsidised goods from China are substantially similar.
- Function and Usage*
47. 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.

⁵ Email of 2 November 2016.

⁶ More details of NZ Steel’s products can be found at <http://www.nzsteel.co.nz/products/galvsteel/> (accessed 2/12/2016).

Pricing

48. 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

49. 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.
50. On the basis of these considerations, and in particular the physical characteristics and function and usage of the goods, MBIE concludes that NZ Steel produces like goods to the goods imported from China.

2 Interested Parties

2.1 Applicant

51. NZ Steel submitted the application. NZ Steel is a wholly owned subsidiary of New Zealand Steel Holdings Limited whose ultimate parent company is BlueScope Steel Limited. BlueScope is an ASX-listed company based in Australia.

2.2 New Zealand industry

52. 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.

53. NZ Steel has stated that it believes it is the only producer of galvanised steel coil in New Zealand. MBIE is unaware of any other producer of galvanised steel coil in New Zealand.

54. 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.

2.3 Exporters

55. NZ Steel named the following companies which it claims are suppliers of the allegedly subsidised product exported to New Zealand:

- Jiangyin Zong Cheng Steel
- Ansteel
- Shandong Iron & Steel

56. For the purposes of any investigation, MBIE will need to identify the exporters listed in Customs data.

2.4 Importers

57. The applicant has named the following companies that it claims are importing the allegedly subsidised products into New Zealand from China:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

58. For the purposes of any investigation, MBIE will need to identify the importers listed in Customs data.

2.5 The Government of China

59. The Government of China is considered an “interested Member” under the Subsidies Agreement.

3 Evidence of Subsidisation

60. Section 10 of the Act outlines the evidence and information that is required in a properly documented application for a subsidy investigation, which includes such evidence of the existence, amount and nature of the subsidies as is reasonably available to the applicant. MBIE also takes into account section 7 of the Act, which provides that the amount of the subsidy is the amount determined as being the benefit conferred on the recipient of the subsidy.
61. The Act defines 'subsidy', 'subsidised goods' and 'specific subsidy' in section 3, which reflect the definitions and descriptions set out in the Subsidies Agreement. In particular, 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 (e.g. grants, loans, equity infusions), government revenue that is foregone or not collected (e.g. tax credits), and the provision or purchase by government of goods or services; and
 - The financial contribution confers a benefit.
62. Such subsidies are countervailable only if they are specific, 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.

3.1 Existence of Subsidies

63. In its application, NZ Steel has set out the sources of information it has used in seeking to identify subsidies available to the subject goods.
64. These sources include subsidy applications by industry and investigations undertaken by Australian and United States investigating authorities, and reports and commentary on the Chinese steel industry. The application lists 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 identifies ten subsidies, and has provided a breakdown and explanation of the programmes based on US Department of Commerce (US DOC) findings.

3.1.1 Precedents in other Jurisdictions

65. In its application, NZ Steel referred to precedents in other jurisdictions regarding investigations and findings of countervailable subsidies in the Chinese steel industry. NZ Steel has used the programmes identified in these investigations, set out in the application and its Appendices, as the basis for its claims regarding subsidisation.
66. Of particular significance are decisions made by the authorities in Australia and the United States dealing with products similar to those covered in the current application.

Australian Anti-Dumping Commission investigation (ADC)

67. NZ Steel cites a 2013 subsidy (and dumping) investigation conducted by the Australian Customs and Border Protection Service⁷ into *Galvanized Steel and Aluminium Zinc Coated Steel from China* (Report 193).
68. The application for a subsidy (and dumping) investigation into imports of galvanised steel from China was filed by BlueScope, the Australian-based parent company of NZ Steel. The applicant notes that the goods in the Australian investigation are like those subject to its current application. A subsidy investigation was initiated on 26 November 2012 and in June 2013 the Australian Customs and Border Protection Service found that Chinese exporters of galvanised steel were receiving countervailable subsidies.
69. The applicant suggests that the Australian investigation findings are a source of cogent and reliable information to be taken into account by MBIE because:
- the Australian reports and decisions are about the subsidisation of products which are exactly the same as the steel products that are the subject of this application
 - the market descriptions of the products are the same, and in many cases the trade names are the same
 - the tariff classifications and the country of origin of the products are the same
 - the investigations by the Australian authorities were exhaustive and are well documented, and included producer visits. The applicant, in particular, draws MBIE's attention to the Australian Customs and Border Protection Service electronic public records for investigations SEF 193, which contains detailed information about the production of goods that are the subject of this application
 - the Australian investigations have each concluded, in large part, with a finding of countervailing margins, and have resulted in the imposition of countervailing duties on the products; and
 - such imposts in Australia are likely to have a diversionary effect on imports into New Zealand, because the New Zealand market is geographically proximate and the product types are the same. NZ Steel has anecdotal evidence that import offers of like products into New Zealand have increased subsequent to the Australian imposition of anti-dumping duties. In November and December 2015, there was a significant increase in imports of galvanised steel coil in New Zealand.

US DOC – International Trade Administration (ITA)

70. NZ Steel cites content in the subsidy investigation completed by the ITA, *Corrosion-resistant steel products from China* (Memo dated 24 May 2016).

⁷ The division of the previous Australian Customs and Border Protection Service responsible for administering Australia's anti-dumping and countervailing legislation was restructured into the Australian Anti-Dumping Commission (Australian ADC) from 1 July 2013.

71. In November 2015 USDOC set preliminary countervailing duties on corrosion-resistant steel products (coated steel), with subsidy rates ranging from 26.26% to 235.66%. NZ Steel provides a table of subsidy programmes that it states the US DOC has identified as benefiting the corrosion-resistant steel products produced in China. On 25 May 2016 the US DOC announced its affirmative final determination in the coated steel case. Final subsidy rates ranged from 39.05% to 241.07%

3.1.2 General Commentary on the Chinese steel industry

72. NZ Steel points to general commentary about the extent to which the Chinese steel industry is benefitting from various forms of subsidies to a material level. It quotes a number of published articles on the Chinese steel industry, including Reuters (UK), which claimed that subsidies accounted for significant and growing percentages 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 or support for loan repayments. News agency summaries of a 2007 report by Wiley Rein LLP, updated in 2010, are also cited, with the report documenting 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 states that these articles outline the extent and impact of the subsidisation of the Chinese steel industry.
73. NZ Steel believes that the commentaries provided show that the expansion of the Chinese steel industry is the direct result of the GOC's directions and control of the industry, and its bestowal of an extraordinary range of subsidies to Chinese steel producers. This shows that the growth of China's steel industry has been both financed and directed by the GOC. NZ Steel notes that eight of the ten largest Chinese steel groups are 100 per cent owned or controlled by the GOC, while 19 of the top 20 groups are majority owned or controlled by the government.

3.1.3 MBIE Consideration

74. The investigations and findings of counterpart authorities are considered by MBIE to provide sufficient evidence of the existence of subsidisation⁸, although it is also noted that in many cases conclusions on the existence or possible existence of subsidies were based on assumptions arising from the failure of Chinese parties to provide information to the investigating authorities⁹. Accordingly, care needs to be taken when assessing the use of information from counterpart authorities.

⁸ WTO case DS437 *United States – Countervailing duties on certain products from China* at section 7.9.6. The Panel noted that the United States had accepted applications which relied on “evidence such as research reports and the financial statements of Chinese companies ... and on prior US-DOC determinations”, and concluded that the US DOC had not acted inconsistently with the US obligations under Article 11 of the Subsidies Agreement to initiate the challenged investigations without sufficient evidence of specificity.

⁹ Decisions made on the basis of the facts available are permissible, in certain circumstances, under Article 12.7 of the Subsidies Agreement.

75. 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. In this respect, it is noted that Wiley Rein LLP is a major Washington DC law firm that has represented the United States steel industry in anti-dumping and countervailing duty cases, and sponsors of the report include United States steel industry groups. While this does not negate the validity of the report cited, MBIE must consider the perspective of the report in assessing the extent to which it supports the applicant's arguments.
76. The findings by the Australian and United States authorities are based on conclusions that the subsidies involved have been a financial contribution by a government or any public body. Any investigation would need to examine the programmes in the light of the developing WTO jurisprudence in this area.
77. MBIE recognises the difficulties the applicant has experienced in obtaining information regarding subsidy programmes in China, but accepts that there is evidence beyond a mere assertion, and of a nature and extent that indicate the likely existence of subsidisation affecting the subject goods (see below under 'Amount and Nature of Subsidies').

3.2 Amount and Nature of Subsidies

3.2.1 Specific Subsidy Programmes

78. NZ Steel's application provided schedules of subsidies identified by Australian (Appendix 1) and United States (Appendix 2) authorities, but provides a breakdown and detail of only some of these programmes in its application (Table 2). The application notes that the Australian investigation identified 36 subsidy programmes and found a range of subsidy levels for Chinese coated steel exporters ranging from negligible amounts for two exporters (for which the investigation was terminated), to 5.2% and 12.5% for other exporters and an all other exporter rate of 21.7%. Based on this information NZ Steel calculated an average rate of 8.1%. However, NZ Steel noted that information from the US investigation may be preferred because it is more recent.
79. Table 2, which is based on US information, includes identification of the title of the subsidy, the nature of the subsidy, the reason for considering that it is specific, the nature of the benefits, a comment on what is known about eligibility for the subsidies and the suppliers involved, and the calculated amount of subsidy identified. The programmes included appear to be those identified in the US DOC investigation of Yieh Phui (China) Technomaterial Co Ltd, the sole cooperating mandatory company respondent in the US proceeding. MBIE has established from Customs data that Yieh Corp, of which Yieh Phui (China) Technomaterial Co Ltd is a subsidiary, was the largest supplier of the subject goods to New Zealand in 2015.
80. The table provided by NZ Steel is based primarily on the US DOC investigation. NZ Steel has stated that it has researched public sources of information on Chinese coated steel subsidies, but has no power to inquire, with cooperation, in China, into Chinese private and state-owned companies regarding their level of subsidisation. Accordingly, NZ Steel has concluded that the most suitable and reasonably available information is that published by investigation authorities in other countries, who have effected and concluded well-resourced inquiries into Chinese subsidisation, particularly those involving like goods to those subject to the current

application. NZ Steel notes that the US DOC investigation, completed in May 2016, is the most recent information available.

81. The subsidy programmes identified in Table 2 include:
- policy loans to the corrosion-resistant steel industry
 - the provision of land-use rights for less than adequate remuneration in Jiangsu Province
 - the provision of hot-rolled steel at less than adequate remuneration
 - the provision of cold-rolled steel at less than adequate remuneration
 - the provision of zinc at less than adequate remuneration
 - the provision of primary aluminium at less than adequate remuneration
 - the provision of electricity at less than adequate remuneration
 - import tariff and VAT exemptions for FIEs and certain domestic enterprises using imported equipment in encouraged industries
 - export buyer's credits
 - reported grants.
82. It should be noted that NZ Steel has not been able to link the suppliers it has identified to the subsidy programmes it has focussed on in Table 2 of the application. Also, the provision of land-use rights in Programme 2 in the above list was linked to Jiangsu Province in the application as illustrative, given that NZ Steel does not know the identity of the Chinese mills supplying the goods.
83. The rates of subsidy included in Table 2 of the application are the rates established by the US DOC, with explanations provided on the basis for calculating the rates. Table 1 in the application provides a summary of the individual rates calculated for the selected programmes, totalling 39.05%.
84. The US DOC and Australian ADC investigations referred to identified other subsidy programmes that were determined to be specific and providing a benefit. The total rate of subsidy determined by the US DOC in relation to all programmes on the basis of adverse facts available was 241.06%.
85. The following paragraphs summarise the specific subsidy programmes identified in Table 2 of the application. The information is based on material sourced from the US DOC investigation, and summarised in NZ Steel's application.

Policy loans to the corrosion-resistant steel industry

86. The application cited a number of GOC instruments to support the claim that the GOC has a policy in place to encourage the development of production of corrosion-resistant steel through policy lending. The application claims that the corrosion-resistant steel industry has been identified as 'encouraged', with support measures available including financing, while provincial and local authorities have been given the discretion to implement their own policies to promote the development of favoured industries.
87. The policy documents provide for loans from policy banks and state-owned commercial banks in China (the China Development Bank and the Import-Export Bank of China were identified), and constitute financial contributions from a government or any public body that are available to specified industries. The level of benefit is equal to the difference between the amounts

paid on the loans compared with the amounts that would have been paid on a comparable commercial loan. The amount of the subsidy calculated by US DOC on the basis of short-term Renminbi-denominated loans, external benchmarks, LIBOR rates, and inflation was 0.86%.

Provision of land use rights for less than adequate remuneration

88. In China all land is owned by the State, so the GOC provides lease agreements and then transfers land-use rights to the companies for little or no cost. NZ Steel has been unable to identify the Chinese mills supplying New Zealand or their location so is unable to identify the charge for land-use rights. The US DOC calculated the level of subsidy at 0.36%, based on the use, in another investigation, of costs in Thailand as a benchmark.

Provision of input materials at less than fair value

89. It is claimed that mills receive a financial contribution from a public body in the form of provision of hot-rolled steel, cold-rolled steel, 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. It is noted that findings of specificity with regard to these programmes have been made in a large number of investigations by US, Canadian and Australian authorities. The level of benefit is the difference between the prices paid and benchmark prices.
90. The US DOC calculated the amounts of subsidy as 23.74% for hot-rolled steel, 2.11% for cold-rolled steel, 0.22% for zinc, and 0.06% for primary aluminium. The benchmarks used for hot- and cold-rolled steel were derived from Steel Benchmark, a global steel benchmark pricing system for use by steel industry participants, and benchmarks from other cases for zinc and aluminium. In all cases, adjustments were made to ensure proper price comparability.
91. 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.

Provision of electricity at less than adequate remuneration

92. Electricity rates are set differently in different provinces, and preferential rates are used as an industrial policy tool to encourage high added-value steel products and discourage outdated production capacities. Lower rates are limited to certain enterprises in certain specified sectors. The policies are implemented via the National Development and Reform Commission (NDRC).
93. The US DOC calculated the level of subsidy at 0.58%, based on information from a Chinese mill on rates paid compared with the highest rates charged in China during the period of investigation for equivalent users, taking account of fluctuating rates throughout the year.

Import tariff and VAT exemptions

94. NZ Steel's application covered the exemptions provided to foreign-invested enterprises (FIEs) from VAT and tariffs on imported equipment used in their production. VAT exemptions were discontinued in 2009 but import duty exemptions can still be received.

95. The US DOC treated the tax as a non-recurring benefit, including the use of discount rates to calculate the amount of the benefit to allocate to the period of investigation. On that basis the level of subsidy was calculated as 0.56%.
96. Because the VAT exemption was discontinued in 2009, MBIE has excluded that element of the claim from its consideration for the purposes of initiation, although any latent subsidy effect may need to be addressed in any investigation.

Export buyer's credits

97. This programme provides for state-owned banks, such as the China Export Import Bank, to make loans at preferential rates for the purchase of exported goods from China. In other investigations the Bank did not provide information requested by US DOC so in order to identify the level of benefit, US DOC used the outcome of a prior proceeding, and determined a subsidy rate of 10.54%.

Reported grants

98. NZ Steel has noted that in the US DOC investigation, the mill which provided information referred to numerous grants received from provincial and local governments, and NZ Steel assumes that any investigation would find similar grants in respect of mills supplying New Zealand. The US DOC determined that the grants were specific, and applied its methodology for non-recurring subsidies to calculate a subsidy rate of 0.02%.

3.2.2 MBIE Consideration

99. The information provided by NZ Steel identifies the type of subsidy that could be available for the exporter, and estimates levels of subsidy, based on information relating to findings from countervailing duty investigations undertaken in other jurisdictions.
100. MBIE has noted the claims made by NZ Steel that it has been unable to identify the mills supplying New Zealand so is unable to conclude whether programmes relating to particular regions might be applicable. This is particularly relevant in the case of programmes involving non-integrated mills, FIEs, SIEs, and those which relate to particular regions, provinces or municipalities.
101. The claims that the programmes are specific subsidies are based primarily on the findings of the US DOC and other investigating authorities, while the rates of subsidy found are 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).
102. For the programmes identified by the applicant, and for which more detailed information is provided as noted above, the level of subsidy totals 39.05%. This level reflects the total of the amounts of benefit provided by the subsidy programmes concerned, as established by counterpart authorities.
103. With regard to the programme relating to the provision of primary aluminium at less than adequate remuneration, it is MBIE's understanding that the subject goods do not include steel

coil coated with alloys of zinc and aluminium, so this programme has not been considered relevant and the level of subsidy identified has been disregarded.

104. MBIE notes, with regard to the programme relating to exemptions from VAT, that the GOC discontinued VAT exemptions under this programme in 2009, but companies can still receive import duty exemptions.
105. MBIE considers that the information provided in the application provides sufficient evidence, in relation to identified programmes, of the nature and amount of subsidisation available to the subject goods, including the types of subsidisation and the bases for concluding that they are specific subsidies.
106. The identified subsidy programmes are as follows:

Programme number	Programme description	Programme type	Level of 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%

107. An investigation may identify other subsidy programmes that are providing a benefit to producers in relation to goods exported to New Zealand, and any such programmes would need to be examined in detail in any investigation.

3.3 Conclusion on Subsidisation

108. NZ Steel has compiled a list of subsidies that it considers could be benefiting Chinese exporters of galvanised steel coil to New Zealand. The information comes from Australian and United States subsidy investigations into similar steel products from China.
109. MBIE is satisfied that the applicant has supplied information that is reasonably available to it, on the existence, amount and nature of the subsidisation by the GOC, of galvanised steel coil in China. Therefore, the application meets the necessary requirements of section 10(2) of the Act and Article 11.2 of the Subsidies Agreement.
110. MBIE also considers that the relevant sources of information, assumptions and adjustments made by the applicant in estimating the existence, amount and nature of the subsidisation, have been made on a reasonable basis. Accordingly, MBIE is satisfied that, after examining the accuracy and adequacy of the evidence provided by the applicant, there is sufficient evidence of subsidisation on which to base a decision on the initiation of an investigation.

3.4 Level of Subsidy and Imports

111. Article 11.9 of the Subsidies Agreement provides that an application shall be rejected and an investigation terminated promptly as soon as the authorities are satisfied that there is not sufficient evidence of subsidisation or injury to justify proceeding with the case.
112. There shall be immediate termination in cases where the amount of a subsidy is *de minimis*, or where the volume of subsidised imports, actual or potential, is negligible. Article 27.10 provides that in the case of investigations relating to products from a developing country Member, the *de minimis* level is 2% of its value, calculated on a per unit basis. China is a developing country in this context.
113. Based on the above, the estimate of the total subsidy for the programmes identified as potentially applicable, is 38.99%, which exceeds the *de minimis* level in the Agreement.
114. Article 11.9 further states there shall be immediate termination in cases where the authorities determine, *inter alia*, that the volume of subsidised imports, actual or potential, is negligible. Article 27.10 provides that in the case of investigations relating to products from a developing country Member, the investigation is to be terminated as soon as the authorities determine that the volume of subsidised imports represents less than 4% of the total imports of the like product.
115. Customs data for the tariff items and statistical keys covering the subject goods for the year ended 31 March 2016 is shown in the table below (this information has not been adjusted to account for any clarification of the goods entering under the relevant tariff classifications):

**Table 3.1: Import Volumes of Galvanised Steel Coil
(Calendar Year 2015)**

	MT	% of Total
Imports from China	██████████	16%
Other imports	██████████	84%
Total	██████████	

116. Imports from China made up 16% of total imports in the calendar year 2015. On this basis, MBIE considers that Chinese import volumes are not negligible under the Subsidies Agreement. Whether or not they are causing material injury to the domestic industry is considered in sections 4 and 5 below.

4 Evidence of Material Injury

117. Under sections 10(1) and 10(2) of the Act, a properly documented application must contain evidence of injury to a New Zealand industry caused by allegedly subsidised imports before an investigation may be initiated. 'Industry' is defined in the Act to mean either the New Zealand producers of like goods or "such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods." In the present case, the domestic industry consists of the sole New Zealand producer of galvanised steel coil, NZ Steel.
118. Section 8(1) of the Act sets out in the matters that must be examined in determining whether or not material injury to an industry is being caused by means of the subsidisation of goods imported into New Zealand, while section 8(2) sets out in detail the matters that MBIE must have regard to in any investigation to establish if material injury exists. In determining whether the evidence provided by NZ Steel is sufficient in terms of section 10(1)(b), MBIE therefore takes guidance from these provisions of section 8 of the Act.

4.1 Financial information provided by NZ Steel

119. The financial information provided by NZ Steel relates to galvanised steel coil produced in New Zealand and sold on the New Zealand domestic market. NZ Steel's injury analysis is based on the impact of the allegedly subsidised goods in calendar year 2015, supported by information covering calendar years 2011 to 2015 (the application period).
120. NZ Steel provides information on trends in **import volumes and values** in calendar years 2011-2015. The applicant has noted that information on import volumes is a best estimate (based on a range of information sources) given that official import statistics are subject to data-suppression. It is also claimed that import statistics (from late 2015) include some goods which are outside the scope of the application, and which account for the significant increase in imports in 2015.
121. NZ Steel states that it uses an import parity pricing model to set its prices. This model considers the prices of competing imports and prices accordingly. The applicant states that it charges a premium over the price of imported goods to reflect the benefits of local supply.
122. NZ Steel provides a graph and spreadsheet showing quarterly prices to support its claims that it has experienced a steady decline in its domestic pricing of the products during the period 2012-2015. The applicant states that it has suffered **price depression** because it has decreased its prices to maintain market share and to meet **price undercutting** by subsidised goods from China.
123. The applicant claims that it has experienced **price suppression** because it was unable to recover increases in fixed costs of production, and provides spreadsheet information to support that claim.
124. In summarising **economic impact**, the applicant states that its gross profit from the affected product has decreased by 10% and that it was unable to recover increases in fixed costs of production during the application period. An injury summary spreadsheet contains the figures to support its claims.

125. The applicant notes that domestic **output** has increased during the application period. The applicant notes its pricing model aims to keep the company competitive by maintaining market share, while competing on price.
126. The applicant states that its **market share** is largely unaffected because its business strategy is to compete on price, while attempting to maintain market share.
127. The applicant has provided information showing **declines in gross profit, and in EBIT** (Earnings Before Interest and Tax) on both a total and a per-tonne basis.
128. The applicant notes that there is no change in **productivity**.
129. The applicant provides information to support claims that it has suffered from a **lower return on invested capital** with alleged price suppression resulting in a reduction in EBIT and cash per annum, with a consequentially lower return on capital. Information to support its claim is provided.
130. With regard to the impact on **ability to raise capital**, NZ Steel notes that it raises finance through its parent company, BlueScope Steel Ltd, a publicly listed Australian firm. The applicant claims that the parent company had intentions to expand the applicant's product range of metal coating, but this project was cancelled due to lower profitability.
131. The applicant notes that **production capacity** is shared with other products that the applicant produces. NZ Steel does not claim injury relating to use of production capacity.

4.2 Import Volume Effects

132. For the purposes of this analysis, it is assumed, based on the analysis outlined in section 4 of this Report, that all imports from China are subsidised, and that the level of subsidisation is more than *de minimis*.
133. 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 volume of imports of the subsidised goods. Section 8(2)(a) of the Act includes among the matters the Secretary shall have regard to in that consideration are 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.
134. NZ Steel has estimated export volumes of galvanised steel coil from China to New Zealand based on information from a variety of sources¹⁰. NZ Steel claims that, from the limited data available, there was a significant increase in the imports of galvanised steel coil from 2014 to 2015, and that in the first half of 2013 imports from China made up 63% of the imports of the total goods.

¹⁰ The sources include import volume monitoring information from MBIE; Statistics NZ import data for unsuppressed codes; data from the International Steel Statistics Bureau; TradeMap data; and NZ Steel market intelligence.

135. Table 4.1 below shows NZ Steel's calculation over the period for which it provided information:

**Table 4.1: Import volumes: NZ Steel estimate
(tonnes, calendar years)**

	2011	2012	2013	2014	2015
China	832	1583	2402	2686	2562
Other countries	3887	3493	2683	5561	9079
Total	4719	5076	5085	8247	11641
China as % of total imports	17.6%	31.2%	47.2%	32.6%	22.0%
NZ industry production		91%	112%	108%	116%
NZ market		93%	110%	115%	121%
China as % of NZ market		210%	136%	98%	78%
China as % of NZ industry production		213%	135%	103%	83%

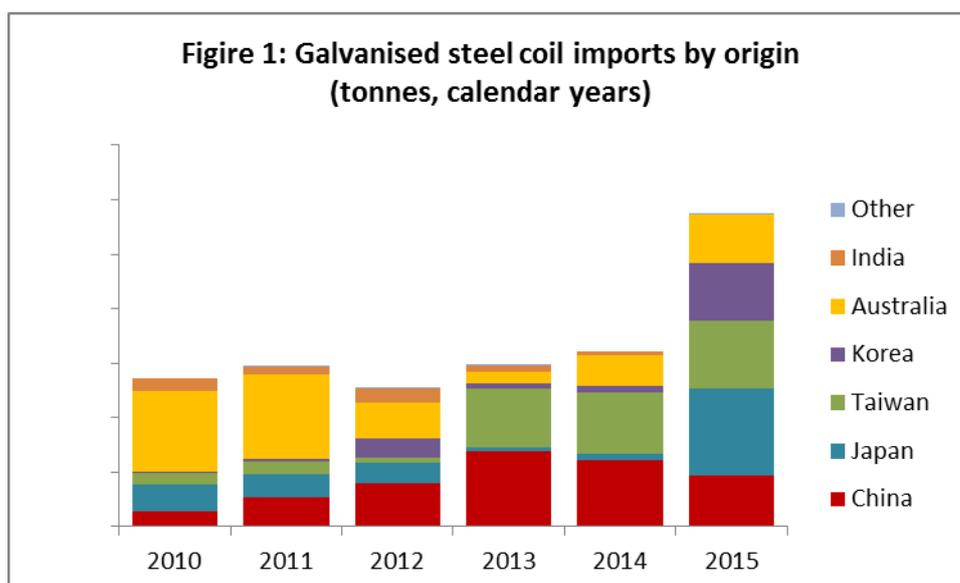
136. NZ Steel notes that monitoring the market is a difficult exercise due to a data-suppression that has been in place since June 2013. With regard to official import statistics published by Statistics New Zealand, there has been a data-suppression order in place for tariff item 7210.49.31.09 (but not for 7210.49.31.01). 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.
137. 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 7210.90.11.09H and 7210.49.31.09A, showing quantities and values (VFD and CIF) for imports from Australia, Singapore and Other¹¹, 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 subject goods entering under 7210.49.31.09.

¹¹ The import monitoring programme was introduced in June 2002 in order 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. Safeguard action cannot be taken against imports from Australia and Singapore, hence the need to separate out such imports in the monitoring process.

- 138. NZ Steel has also noted that in late 2015, zinc-aluminium-magnesium alloy-coated steel from Japan was included in the import data for the tariff keys covering the subject goods. NZ Steel suggests that these alloy-coated goods were previously being imported under tariff item 7210.61.3009, and the change explains, according to NZ Steel, the significant increase in imports in 2015. Alloy-coated goods are outside the scope of the application.
- 139. NZ Steel has reported that it does itself import galvanised steel products from Australia, but the specifications are for gauges outside its plant capability.
- 140. Customs collects data on imports by tariff item and statistical key. Table 4.2 below aggregates the imports under the relevant tariff keys, identified by NZ Steel, and under which the subject goods are imported. MBIE has sourced data from Customs that covers the goods imported into New Zealand under the tariff items and statistical keys shown in section 3.1 above. These tariff items and statistical keys may cover a wider range of goods than the subject goods, in part for the reasons noted above, but the figures do include the suppressed data. Figure 6 on page 45 shows imports adjusted to exclude imports that might not be like goods. Clarification of the actual levels of imports of the subject goods will be undertaken in any investigation.

**Table 4.2: Import volumes: New Zealand Customs Service
(tonnes, calendar years)**

	2011	2012	2013	2014	2015
Australia	3121	1347			
China	1086	1583			
India	270	507			
Japan	860	745			
Korea	68	668			
Taiwan	458	227			
Other	41	52			
Total	5903	5128			



141. The following table shows galvanised steel coil imports and domestic sales on an annual basis, with import data sourced from Customs and domestic production from NZ Steel.

**Table 4.3: Import Volumes
(tonnes, calendar years)**

	2011	2012	2013	2014	2015
Imports from China	1086	1583		89%	77%
Other imports	4817	3545		126%	243%
Total imports	5903	5128		109%	179%
NZ industry production		91%	112%	108%	116%
NZ market		91%	112%	108%	125%
Change in imports from China		497			
Change in other imports		-1272			
Change in NZ production					
Change in NZ market					
China as % of imports	18.4%	30.9%	46.8%	38.4%	16.4%
China as % of NZ production		159%	155%	84%	65%
China as % NZ market		163%	155%	82%	61%

142. In absolute terms, imports from China increased from 2011 to 2013, but decreased in 2014 and 2015. Import volumes from other countries declined from 2011 to 2013, but increased in 2014 and increased significantly in 2015. In 2015 imports from China were still higher than in 2011 and 2012.
143. Relative to New Zealand *production*, imports from China increased from 2011 to 2013 but declined in 2014 and 2015. The 2015 figure was still higher than in 2011. A similar pattern applied to imports from China as a percentage of domestic *consumption* (the New Zealand market).
144. It seems likely that the increase in total imports in 2015 results primarily from imports of galvanised steel with alloy coatings, or other imports of goods that are outside the scope of the application. The extent to which this is occurring will need to be examined in any investigation.
145. On the basis of this analysis, there is insufficient evidence to support a conclusion that there has been a significant increase in the volume of imports of subsidised goods from China in absolute terms or in relation to production or consumption in New Zealand.

4.3 Price Effects

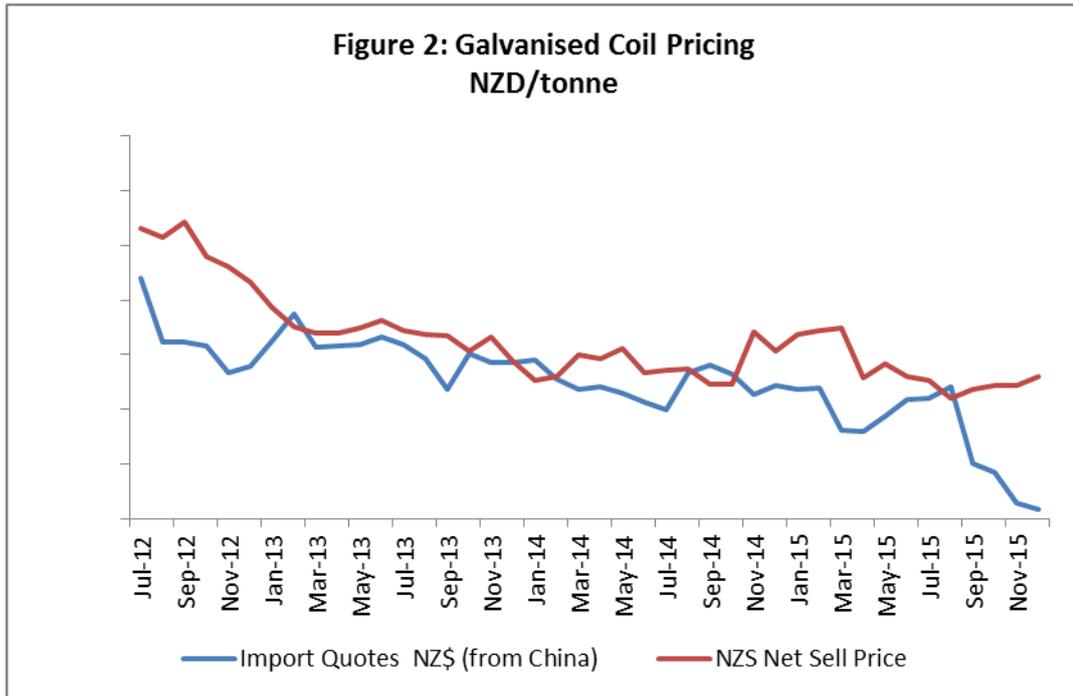
146. Section 8(1) of the Act requires that in determining whether or not material injury is being caused to an industry, the Secretary shall examine the effect of the subsidised goods on prices in New Zealand for like goods. Sections 8(2)(b) and (c) include among the matters the Secretary shall have regard to in that consideration are 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.

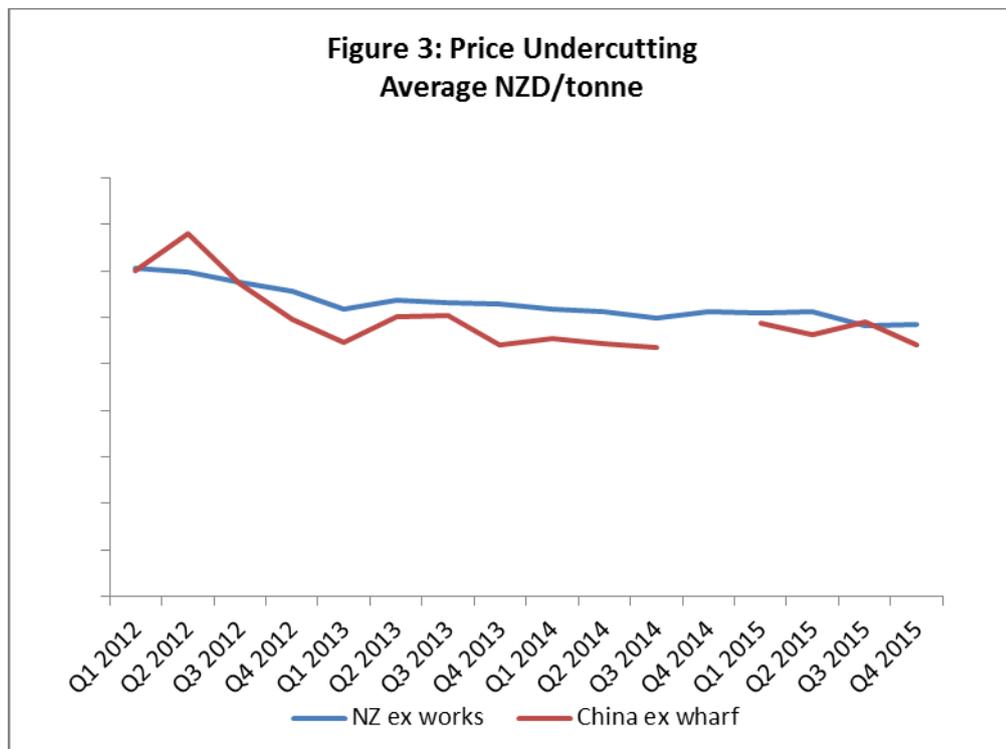
4.3.1 Price Undercutting

147. Price undercutting refers to the extent to which the prices of the subject goods are lower than prices in New Zealand for like goods of New Zealand producers. Prices are compared at the point that the imported goods first compete with the goods made in New Zealand (referred to as the level of trade). Price undercutting is not in itself a determination of the extent of injury, i.e., 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, *inter alia*, in terms of the factors and indices set out in section 8(2)(d) of the Act, outlined in section 5.4 of this Report.
148. In its application, NZ Steel noted that the allegedly subsidised goods have a similar pricing structure (with gauge, width and coating extras) to the New Zealand manufactured products, and in order to maintain market share NZ Steel is forced to meet prevailing import offers. NZ Steel's pricing to the merchant distributor and end user market is based on import parity pricing and is reviewed monthly to ensure competitiveness. A premium is applied over import pricing to reflect the benefits of local supply and NZ Steel's market offer. These benefits include short lead times, order flexibility, small order item quantities, product quality, technical service, payment terms, customer service and NZD pricing. NZ Steel provided a description of its import parity pricing process, and noted that its sales channel for the products is principally through the significant New Zealand distributors of steel, being Steel and Tube Holdings, Fletcher Easysteel and Vulcan Steel Limited. All of these companies, [REDACTED].
149. The point of comparison for imported and domestic pricing used by NZ Steel is at the nominal free in store (FIS) price. This price is based on taking price quotes developed from customer feedback, pricing from international steel review publications and market intelligence from BlueScope overseas offices, generally expressed in USD terms. This is converted into an FIS price in NZD, and includes adding freight charges, port service charges and handling costs, import duty where applicable, and domestic cartage to distributor's store.
150. NZ Steel provided a graph of galvanised steel coil pricing comparing specific import quotes for a particular product line with NZ Steel's net selling price, as evidence of ongoing falls in the quotes for galvanised steel destined for New Zealand, and pointing out that the surge in imports in late 2015 coincided with the fall in price. NZ Steel provided supplementary information in the form of the source data for the chart¹².

¹² Email of 2 November 2016.



151. In order to check the adequacy and accuracy of the evidence provided, MBIE has used Customs data and provision for destination costs as provided by NZ Steel to derive average quarterly Chinese ex-wharf prices and give the following comparison with NZ Steel’s average quarterly ex-works prices (there were no imports from China in the 4th quarter of 2014).



152. Price undercutting occurred in 12 of the 16 quarters over this period, with the levels of undercutting ranging from 3.7% to 14.4%. Annual averages increased from [redacted] % in 2012 to [redacted] % in 2013, and [redacted] % in 2014, before declining to [redacted] % in 2015.

153. NZ Steel also provided information¹³ relating to calendar year 2015 to support its claims of price undercutting. The New Zealand-side destination costs included warehousing, local handling (documentation, customs clearance etc) and local transport and unpacking, and were based on information provided to NZ Steel by a freight forwarding services provider.

Table 4.4: Price Undercutting – 2015 Calendar Year

Annual averages for grade G250 Z275	
Export price (CFR average (USD/tonne))	██████████
Average exchange rate USD0.70 = NZD 1.00	
Chinese goods at ex-wharf NZ (NZD/tonne)	██████████
New Zealand-side destination costs (NZD/tonne)	██████████
Chinese goods at FIS (NZD/tonne)	██████████
NZ Steel price FIS (NZD/tonne)	██████████
Undercutting amount (NZD/tonne)	██████████
Undercutting %	██████████

154. Based on annual averages from NZ Steel’s application and from Customs data, MBIE has calculated price undercutting in 2015 as an average of ██████████%.

155. The information provided supports the claims of price undercutting.

4.3.2 Price Depression

156. Price depression occurs where prices achieved by the New Zealand manufacturers are lower than those achieved in a period unaffected by dumped or subsidised goods. Price depression is not in itself a determination of the extent of injury. There must be a consequential impact on the industry, measured primarily in terms of the factors and indices set out in section 8(2)(d) of the Act.

157. NZ Steel submits that it has experienced a steady decline in its domestic pricing of the products during the application period as a direct consequence of the allegedly subsidised goods being priced below the usual value in China and undercutting prices in New Zealand. A graph showing the quarterly movement in NZ Steel’s net selling price is provided to illustrate the decline in prices, along with a spreadsheet containing the source data.

158. The following table shows this information:

¹³ Email of 2 November 2016.

**Table 4.5: Price Depression
NZD per tonne**

Period	Nett Selling price NZD/tonne	Change NZD	As % of Q1 2012
Q1 2012			100%
Q2 2012			99%
Q3 2012			96%
Q4 2012			93%
Q1 2013			88%
Q2 2013			90%
Q3 2013			89%
Q4 2013			88%
Q1 2014			86%
Q2 2014			86%
Q3 2014			84%
Q4 2014			86%
Q1 2015			85%
Q2 2015			86%
Q3 2015			81%
Q4 2015			82%

159. Table 4.5 shows that NZ Steel's average selling price decreased over the period. By Q4 2015, NZ Steel's average selling price had dropped to 82% of its Q1 2012 average selling price, and while there were some quarters when prices recovered slightly, the overall trend is downwards.
160. There is evidence of price depression, in that average prices have decreased over the period, but the extent to which subsidised imports from China have contributed to this and the consequential impact of any price depression is assessed later in this report.

4.3.3 Price Suppression

161. Price suppression occurs when New Zealand producers are unable to increase prices, for example, to recover cost increases. Price suppression is not in itself a determination of the extent of injury. There must be a consequential impact on the industry, measured in terms of the factors and indices set out in section 8(2)(d) of the Act.
162. NZ Steel claims that it was unable to recover its increases in fixed costs of production during the application period. MBIE has compared NZ Steel's total costs as a percentage of sales revenue from FY2012 to FY2015. The following table shows the resulting calculations:

**Table 4.6: Price Suppression
(NZD)**

Period	Total sales	Fixed costs (including S&A)	Fixed cost as % of sales	Variable costs	Variable costs as % of sales
Q1 2012	100%	██████████	100%	██████████	100%
Q2 2012	110%	██████████	100%	██████████	103%
Q3 2012	109%	██████████	100%	██████████	105%
Q4 2012	74%	██████████	103%	██████████	105%
Q1 2013	114%	██████████	105%	██████████	105%
Q2 2013	100%	██████████	98%	██████████	100%
Q3 2013	121%	██████████	112%	██████████	100%
Q4 2013	81%	██████████	91%	██████████	100%
Q1 2014	96%	██████████	102%	██████████	100%
Q2 2014	113%	██████████	100%	██████████	96%
Q3 2014	116%	██████████	98%	██████████	112%
Q4 2014	81%	██████████	100%	██████████	98%
Q1 2015	108%	██████████	100%	██████████	102%
Q2 2015	88%	██████████	98%	██████████	98%
Q3 2015	148%	██████████	110%	██████████	106%
Q4 2015	71%	██████████	100%	██████████	98%

163. Table 4.6 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 ███% higher for fixed costs and ████% higher for variable costs, giving a total of ████%, which could be regarded as significant.
164. There is, therefore, evidence of price suppression to the extent that NZ Steel's revenue did not reflect the margins over costs achieved in the earlier part of the period being examined.

4.3.4 Conclusion on Price Effects

165. There is evidence that the average prices of galvanised steel coil imports from China are undercutting NZ Steel's average selling prices, although the extent of the undercutting is affected by NZ Steel's policy of pricing to meet competition from imports.
166. There is evidence of price depression, in that average prices have decreased over the period, and there is evidence of price suppression in that cost increases have not been reflected in price increases.
167. The extent to which subsidised imports from China have contributed to the price effects identified and the consequential impact of those price effects is assessed in terms of the economic impact in the following section of the report.

4.4 Consequent Impact

168. Section 8(1) of the Act requires the Secretary to examine the volume and price effects of the subsidised goods, and to examine the consequent impact of subsidised goods on the relevant New Zealand industry. Sections 8(2)(a)-(c) provide a description of the matters relating to the volume and price effects which the Secretary shall have regard to, while 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.

4.4.1 Sales Volume and Sales Revenue

169. Movements in sales revenue can reflect changes in volume 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.
170. NZ Steel provides information in two spreadsheets, one (Appendix 6 – Material Injury) providing annual production for 2011-2015 of like goods for domestic sale, in tonnes and NZD values, to compare with its estimates of import volumes and values; and the other (Appendix 8 – Material Injury Analysis) providing quarterly sales volume and revenue for 2012-2015, with cost and profit information on total and per unit bases. There are some variations between the two spreadsheets reflecting the fact that Appendix 6 refers to production and Appendix 8 refers to sales.
171. NZ Steel submits 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.
172. The following table sets out the sales volume and sales revenue information provided by NZ Steel in its Appendix 8:

**Table 4.7: Sales Volume (tonnes) and Sales Revenue (NZD000)
(from Appendix 8)**

	2012	2013	2014	2015
Sales Volume				
Annual change (%)		111%	105%	108%
Sales Revenue (NZD 000)				
Annual change (%)		102%	101%	105%
Revenue per unit (NZD/tonne)				
Annual change (%)		92%	96%	97%

173. The information clearly shows that NZ Steel's annual sales volumes and revenue have generally increased over the period, although revenue per unit decreased compared with 2012. This confirms the company's approach of matching prices to maintain volume of sales.

4.4.2 Market Share

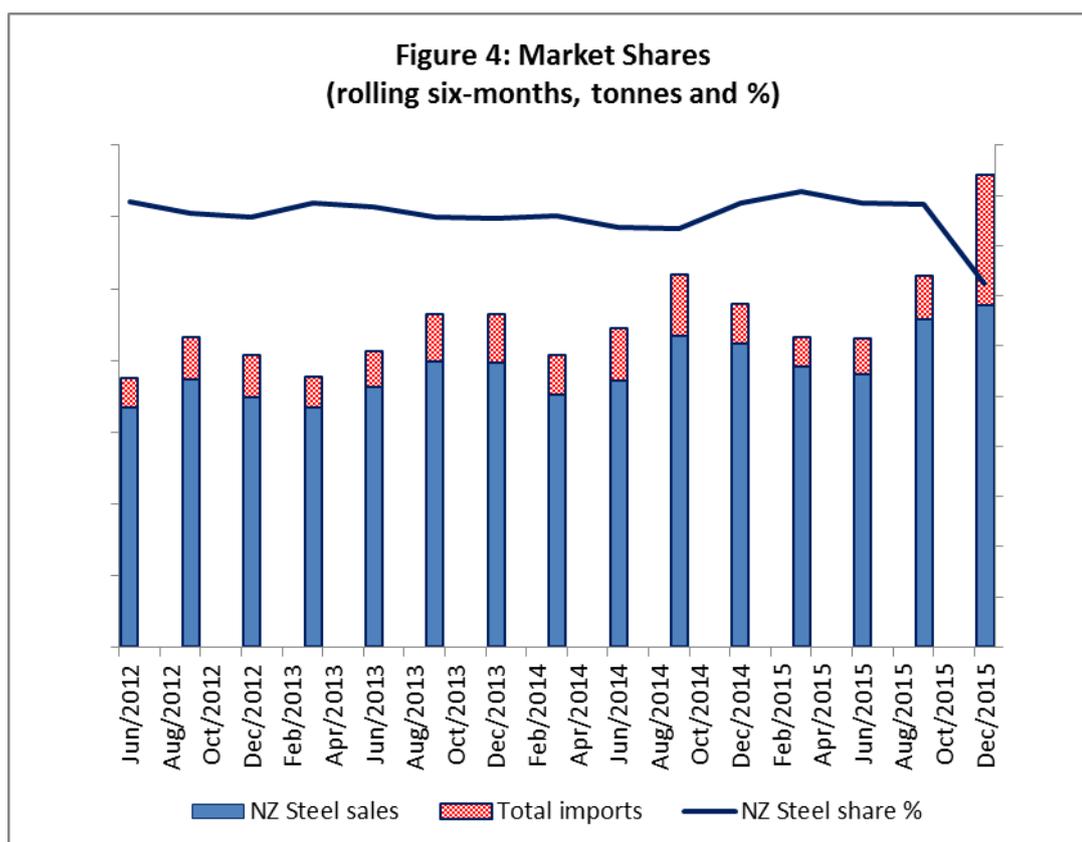
174. Analysis of market share must consider changes in the size of the total market. A decline in the domestic industry's market share when the total market is expanding will not necessarily

indicate that material injury is being caused, particularly if the domestic industry's sales are also growing - the New Zealand industry is not entitled to a particular market share.

175. NZ Steel noted that as a result of its pricing strategy, market share has been largely unaffected. Because NZ Steel lowered its market price to maintain market share, the material injury has been through downward pressure on market prices and the resulting reduction in margin. A graph was provided (Appendix 9) to show market share by tonnes and percentage on a six month moving total from December 2013 to December 2015. The graph shows minor fluctuations in NZ Steel’s market share over this period in a market that has grown overall.
176. The following table and chart provide market share information for galvanised steel coil on a quarterly basis for calendar years 2012-2015, based on import data from Customs and NZ Steel sales figures from Appendix 8 of the application.

Table 4.8: Market Share (MT)

	NZ Steel sales volume tonnes	Imports from China tonnes	Total imports tonnes	NZ market tonnes	China % share	Other imports % share	NZ Steel % share
Q1 2012	██████████	234	980	██████████	██████████	██████████	██████████
Q2 2012	██████████	104	1139	██████████	██████████	██████████	██████████
Q3 2012	██████████	630	1783	██████████	██████████	██████████	██████████
Q4 2012	██████████	615	1135	██████████	██████████	██████████	██████████
Q1 2013	██████████	511	1039	██████████	██████████	██████████	██████████
Q2 2013	██████████	934	1478	██████████	██████████	██████████	██████████
Q3 2013	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q4 2013	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q1 2014	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q2 2014	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q3 2014	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q4 2014	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q1 2015	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q2 2015	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q3 2015	██████████	██████████	██████████	██████████	██████████	██████████	██████████
Q4 2015	██████████	██████████	██████████	██████████	██████████	██████████	██████████



177. The figures in Table 4.8 show that the domestic industry’s market share remained relatively stable within a range of a few percentage points until the last quarter of 2015 when it dropped significantly. China’s share of imports more than doubled for some of the middle part of the period covered, but by the end of the period had fallen to the kinds of levels at the beginning of the period as imports from other suppliers increased. As noted earlier, the Customs data may include imports that are not like goods, in which case China’s share of imports could be higher.

178. The pattern of market share held by NZ Steel reflects its pricing strategy. The significant fall in market share at the end of 2015 reflects the increase in imports from sources other than China, and as noted earlier, it is likely that this increase was in goods not like those that are the subject of the application. It is difficult, therefore, to draw a close correlation between imports from China and changes in the NZ Steel’s market share.

4.4.3 Profits

179. Subsidised imports can affect gross profit and net profit via the impact on sales prices and volumes.

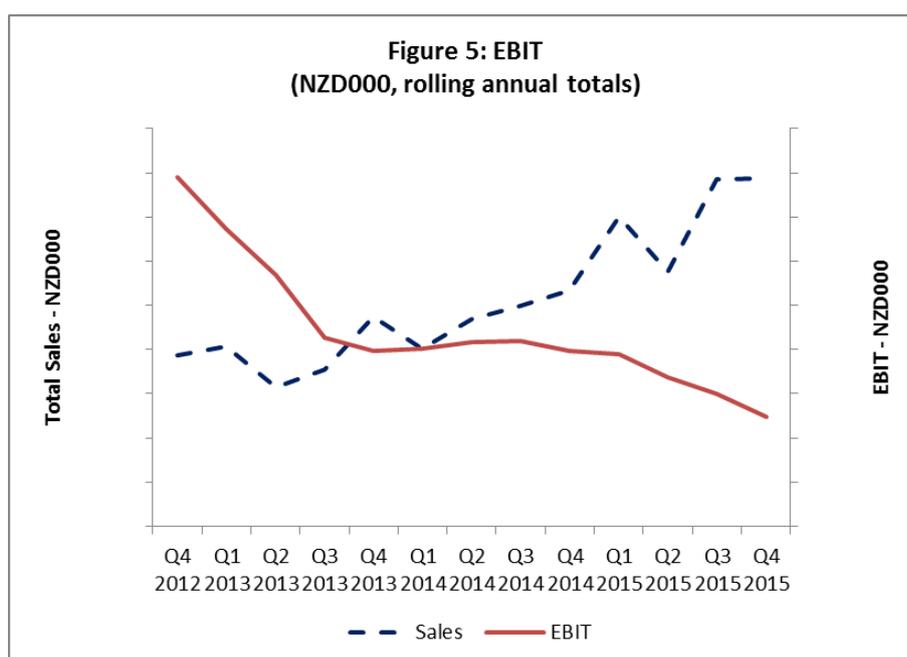
180. NZ Steel has argued that the main impact of the subsidised imports has been on profits, as prices have been reduced to match prices of imports from China. NZ Steel claims that during the application period it experienced a steady decline in profitability, with profits eroded by ███% in 2013 when compared with the previous year, and have fallen a further ███%. The claims regarding declines in profits are illustrated in the spreadsheet provided as Appendix 8.

181. The following table shows NZ Steel’s earnings before interest and taxation (EBIT) figures on a quarterly basis from calendar years 2012 to 2015. EBIT is the gross profit less distribution costs.

**Table 4.9: EBIT (Profit)
(\$000, NZD)**

	Total EBIT	Total EBIT as % of Q1 2012	EBIT as % of net sales	EBIT NZD/tonne
Q1 2012	100%	100%		
Q2 2012	105%	105%		
Q3 2012	99%	103%		
Q4 2012	62%	64%		
Q1 2013	70%	45%		
Q2 2013	125%	56%		
Q3 2013	65%	36%		
Q4 2013	138%	50%		
Q1 2014	93%	47%		
Q2 2014	134%	62%		
Q3 2014	62%	38%		
Q4 2014	102%	39%		
Q1 2015	108%	43%		
Q2 2015	91%	39%		
Q3 2015	54%	21%		
Q4 2015	68%	14%		

182. Total EBIT declined significantly over the period despite generally increasing sales volumes, as illustrated in the following chart, which uses rolling annual figures to iron out seasonal variations:



183. All measures of EBIT show significant declines – 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.

4.4.4 Other Economic Impacts

184. NZ Steel's application listed a number of the other factors referred to in section 8(2)(d)(i) of the Act, with comments on whether or not they were affected by subsidised imports.

Productivity

185. Productivity is the relationship between goods produced and the inputs required to manufacture them. Productivity is affected by output/sales and capacity utilisation levels.
186. NZ Steel notes that there is no change in productivity.

Return on investment

187. Return on investment measures profit against the value of the investment in a business. Changes in return in investment may impact the ability to retain current investment or attract new investment. Declines in return on investment can result from a decline in profit or an increase in the level of investment within the business.
188. NZ Steel provides information to support claims that it has suffered from a lower return on invested capital with alleged price suppression resulting in a reduction in EBIT and cash per annum, with a consequentially lower return on capital. To support its claim NZ Steel notes that price suppression by the subsidised goods relative to 2013 is estimated at NZD [REDACTED]/tonne, equivalent to NZD [REDACTED] in EBIT and cash per annum. The NZ Steel metal coated line (MCL), of which galvanised steel coil is a part, has an estimated return on invested capital (ROIC) of [REDACTED]% for 2015 reflecting the impact of the subsidised goods, but without the price suppressing effect NZ Steel claims that the ROIC would have been [REDACTED]%.
189. NZ Steel has provided further information¹⁴ relating to the ROIC on galvanised coil ([REDACTED]% of MCL throughput) as further evidence of the decline in ROIC. This evidence shows that estimated ROIC for galvanised coil declined from [REDACTED]% in 2012 to [REDACTED]% in 2015, but if 2012 EBIT levels had been maintained the ROIC in 2015 would have increased to [REDACTED]%.

Utilisation of production capacity

190. The utilisation of production capacity reflects changes in production volumes or changes in capacity. A decline in production volumes will normally lead to a higher cost per unit due to increased fixed overheads per unit. This will lead to a decrease in profit level, unless offsetting savings are found elsewhere.
191. NZ Steel notes that its metal coating line also manufactures zinc-aluminium alloy coated steel products that are not part of the application, and plant capacity is shared between the two products. No claims of injury are made regarding utilisation of production capacity.

¹⁴ Email of 2 November 2016.

Factors Affecting Domestic Prices

192. NZ Steel has not raised any other factors affecting domestic prices in terms of the current performance of the company.

4.4.5 Other Adverse Effects

193. NZ Steel's application raised only two of the other factors referred to in section 8(2)(d)(iv) of the Act.

Ability to Raise Capital and Investments

194. With regard to the impact on ability to raise capital and investments in the business, NZ Steel notes that it raises finance through its parent company, BlueScope Steel Ltd, a publicly listed Australian firm. The applicant claims that the parent company had intentions to expand the applicant's product range of metal coating, but this project was cancelled due to lower profitability. NZ Steel claims that the price effects of the subsidised goods contributed to this lower profitability.
195. Evidence has been provided to support the claim the proposed capital investment in New Zealand Steel's Metal Coating Line was indefinitely placed on hold in mid 2015 and effectively cancelled soon after. There were several commercial reasons which contributed towards this decision to cancel one of which was that the metal coating line was not as profitable as had historically been the case.¹⁵

Other Factors

196. NZ Steel provided further comment¹⁶ on the other factors referred to in section 8(2)(d)(iv) of the Act.
197. With regard to cashflow, NZ Steel noted that cashflow effects specific to the subsidised goods are difficult to isolate out of the MCL business unit. However, on a similar basis as used for estimating ROIC, NZ Steel estimated that the cashflow economic impact was NZD ██████████ ██████████ in 2015.
198. With regard to employment and wages, NZ Steel noted that throughput in the Glenbrook Steel Mill is mechanically calibrated to an approximate annual volume, so the inability or impracticability to substantially alter throughput means that employment will not materially change, irrespective of the amount of injury being caused by subsidised imported goods. However, since plant expansion would have a positive employment effect, this effect will not occur if subsidised imports prevent such growth.
199. NZ Steel claims that the decision not to proceed with the MCL expansion was contributed to by the injurious effects of the subsidised goods in the New Zealand market.

¹⁵ Email of 2 December 2016.

¹⁶ Email of 2 November 2016.

4.4.6 Conclusion on Consequent Impact

200. NZ Steel claims that the impact of the subsidised goods is apparent primarily through price effects, given the company's strategy of reducing prices to maintain sales volumes. This is confirmed by information which clearly shows that while NZ Steel's annual sales volumes increased over the period, revenue in total and per unit decreased. Similarly, the information provided on market share shows that the pattern of market share held by NZ Steel reflects its pricing strategy. It is noteworthy that the significant fall in market share at the end of 2015 reflects the increase in imports from sources other than China.
201. However, when it comes to profits, all measures of EBIT show significant declines and the conclusion has been reached that there has been an actual decline in profits which can be attributed to price undercutting, price depression and price suppression.
202. There is also evidence to suggest that the reduction in profits attributable to the price effects has adversely affected the return on investments and cashflow.

4.5 Conclusion on Material Injury

203. Material injury is not defined in either the Act or the Subsidies Agreement, but rather is the level of injury which can be demonstrated by an objective and unbiased investigating authority on the basis of an assessment of the factors set out in the Act, and in the context of the circumstances of the industry concerned.

4.5.1 Import Volumes

204. There is insufficient evidence to support a conclusion that there has been a significant increase in the volume of imports of subsidised goods from China in absolute terms or in relation to production or consumption in New Zealand.

4.5.2 Price Effects

205. There is sufficient evidence that the average prices of galvanised steel coil imports from China are undercutting NZ Steel's average selling prices, although the extent of the undercutting is affected by NZ Steel's policy of pricing to meet competition from imports.
206. There is sufficient evidence of price depression, in that average prices have decreased over the period, and there is sufficient evidence of price suppression in that cost increases have not been reflected in price increases.

4.5.3 Economic Impact

207. There is sufficient evidence that the New Zealand industry has suffered the following adverse effects:
- a decline in profit
 - an adverse impact on return on investments, cashflow, the ability to raise capital, investments and growth.
208. There is insufficient or no evidence of injury in relation to the following injury factors:
- sales volume and revenue, which have shown increases

- domestic industry's market share, which has not declined.

209. The industry has made no specific claims with regard to a decline in productivity, utilisation of production capacity, inventory levels, and employment and wages.

4.5.4 Conclusion

210. With regard to the matters specified in the Act relating to the volume of imports of subsidised goods and the effect of subsidised goods on prices in New Zealand for like goods:

- There is insufficient evidence to support a conclusion that there has been a significant increase in imports of subsidised goods in absolute terms or in relation to production or consumption in New Zealand.
- There is sufficient evidence that imports of subsidised galvanised steel coil from China have been undercutting prices of NZ Steel.
- There is sufficient evidence of price depression, in that average prices have decreased over the period.
- There is sufficient evidence of price suppression to the extent that NZ Steel's has not been able to recover cost increases through increased prices.

211. With regard to the consequent impact of the volume and prices of subsidised goods:

- There is insufficient evidence to conclude that there has been a decline in sales volume or revenue.
- It cannot be concluded that there is a decline in market share that can be attributed to subsidised imports from China.
- There is sufficient evidence to support a conclusion that profits have declined significantly as a result of price effects attributed to subsidised imports from China.
- There is sufficient evidence to support claims that NZ Steel has suffered impaired returns on investments and adverse effects on cashflow, ability to raise capital, investments and growth.

212. On the basis of all the analysis undertaken, MBIE concludes that there is sufficient evidence of material injury attributable to subsidised imports from China to justify the initiation of an investigation.

5 Evidence of Causal Link

213. Section 10(1)(b) of the Act requires that sufficient evidence be provided that material injury is caused by the subsidised goods in order for an investigation to be initiated. This does not preclude any other factor(s) also being a cause of material injury, and section 8(2)(e) of the Act identifies the factors that the Secretary shall have regard to in assessing other factors. This reflects the requirements of Articles 11.2 and 15.5 of the Subsidies Agreement.
214. 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 their consequent impact on the domestic industry, as set out in the application and in MBIE's examination of the adequacy and accuracy of the claims made.
215. MBIE has also examined factors other than the subsidised goods that have injured or are injuring the industry.

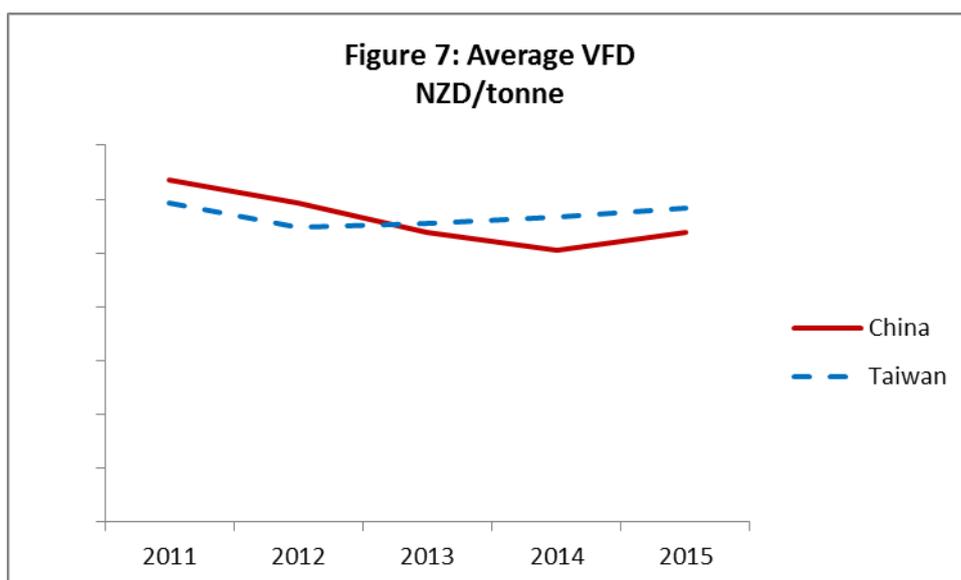
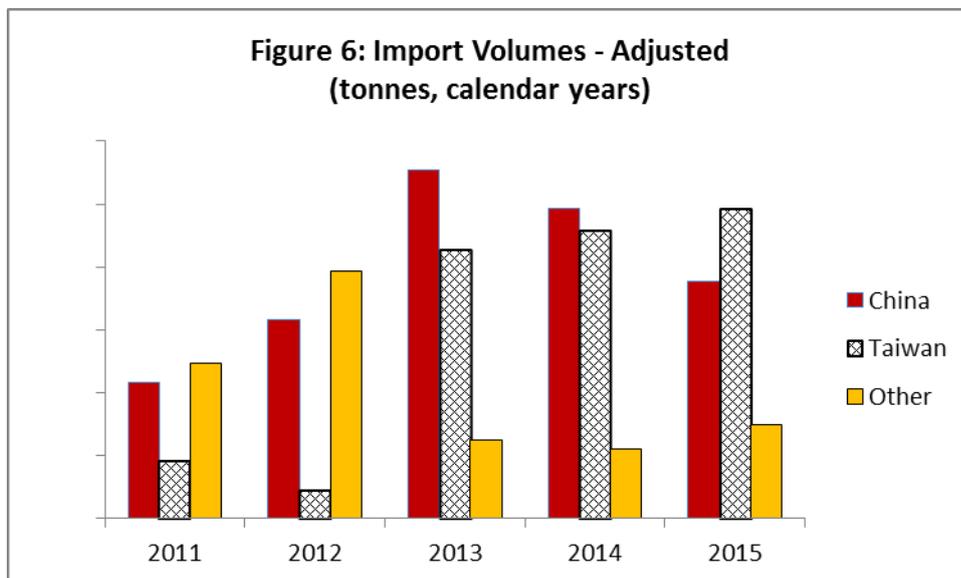
5.1 Subsidised Imports

216. As described in the preceding sections of this report, MBIE has examined the claims made by NZ Steel with regard to the volume and price effects of subsidised imports and the consequent impact on the domestic industry. MBIE has identified that evidence has been provided that price undercutting by subsidised imports from China has contributed to price depression and price suppression being experienced by NZ Steel. Evidence has been provided to support claims that the consequence of these price effects are actual declines in profits and the return on investments, and an actual effect on the ability to raise capital.

5.2 Other Imports

217. Section 8(2)(e)(i) of the Act refers to the volume and prices of goods that are not subsidised.
218. NZ Steel has pointed out imports that are entering under the HS Codes covering the subject goods that are not like the allegedly subsidised goods from China. The analysis of import volumes described in section 5.2 above takes this into account. However, the analysis of the accuracy and adequacy of the information provided also highlighted some other aspects of imports that could be contributing to the injury.
219. In particular, 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. While 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.
220. This all suggests that imports from Taiwan were the main source of like goods other than China over the period 2013-2015, and that such imports increased in that period while imports from China were decreasing. Average VFD prices were increasing from Taiwan while

equivalent prices from China were decreasing. Any investigation would need to undertake a closer examination of the extent to which prices of Taiwanese steel might be influencing prices in the New Zealand market.



5.3 Demand and Consumption

221. Section 8(2)(e)(ii) of the Act refers to contraction in demand or changes in the patterns of consumption.

222. NZ Steel has indicated¹⁷ that it is not aware of any contraction in demand or changes in patterns of consumption causing injury. However, MBIE note that demand for building

¹⁷ Email of 2 November 2016.

materials in New Zealand has increased as a result of increased building activity. It is not clear whether the increases in imports of alloy-coated goods not produced by NZ Steel might represent a change in the pattern of consumption.

5.4 Trade Practices

223. Section 8(2)(e)(iii) of the Act refers to restrictive trade practices of, and competition between, overseas and New Zealand producers.
224. NZ Steel has made no comment on these matters, except to note that the allegedly subsidised imports have a similar pricing structure to domestic goods and supply the same market.

5.5 Developments in Technology

225. Section 8(2)(e)(iv) of the Act refers to developments in technology.
226. NZ Steel has made no comment on these matters, but has stated that the subject goods and the like goods produced in New Zealand have the same physical characteristics and end uses, and substantially similar production methods.

5.6 Exports of New Zealand Producers

227. Section 8(2)(e)(v) of the Act refers to the export performance and productivity of the New Zealand producers.
228. NZ Steel has provided details of export sales, by quarter, for calendar years 2013-2015, in terms of volumes and value. These sales make up a large proportion of total sales in this period. Injury information provided relates to domestic sales only, but any investigation will need to consider the impact of export sales volumes and prices on the business.
229. NZ Steel does not consider¹⁸ 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 18 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.

5.7 Conclusions on Causal Link

230. MBIE is satisfied that there is sufficient evidence of a causal link between the subsidised imports from China and the volume and price effects and consequent impact on the domestic industry.
231. With regard to the other causes of injury identified in the Act, MBIE notes that any investigation will need to have regard to the extent to which imports from other sources might be affecting the state of the domestic industry, and the effect of movements in export sales volumes and values on the business. It will also need to examine whether changes in patterns of consumption or technological developments are relevant factors.

¹⁸ Email of 2 November 2016.

6 Conclusion

232. On the basis of its examination of the information provided by the applicant, MBIE concludes that:
- a. sufficient evidence has been provided that galvanised steel coil from China is being subsidised, and that;
 - b. sufficient evidence has been provided to show that material injury to the New Zealand industry is being caused by subsidised goods imported from China.
233. On this basis, an investigation should be initiated to determine the existence and effect of the alleged subsidisation.

7 Recommendation

234. Based on the above conclusions, MBIE recommends that the General Manager, Science, Innovation and International Branch, acting under delegated authority from the Chief Executive, should initiate a subsidy investigation into galvanised steel coil from China.

Sanjay Bhawan
Acting Manager
Trade and Regulatory Cooperation
Labour, Science and Enterprise

2016

Agreed

Dr Peter Crabtree
General Manager
Science, Innovation and International
Labour, Science and Enterprise

2016

Appendix 1: GOC's Comments on Application

General Comments

The GOC noted that in accordance with Article 11.3 of the Subsidies Agreement, MBIE is required to review the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiation of an investigation. The GOC suggested that the application failed to provide any sufficient and accurate evidence to prove the alleged subsidies, injury and causal link. Remarks from media and law firms had been used as a basis for a wild guess that China was subsidising its steel industry, but this did not meet the evidential requirements of the Subsidies Agreement and the New Zealand Act.

Burden of Evidence

The GOC noted that Article 11.2 of the Subsidies Agreement requires sufficient evidence of subsidy, injury and a causal link, and simple assertion unsubstantiated by relevant evidence cannot be considered sufficient to meet the requirements. The GOC also suggested that the information required includes the names of exporters and producers, and information on the existence, amount and nature of the subsidy in question. The GOC noted that while the applicant claims that it has provided such information as is reasonably available to it, without this specific information the authority cannot be satisfied of the sufficiency of the evidence.

Evidence of subsidisation

The GOC claimed that the application failed to provide sufficient evidence of subsidisation and did not meet the requirements of the Subsidies Agreement or the New Zealand legislation. In particular:

- The allegations regarding subsidy programmes and amounts were based on findings by Australian and US authorities; the laws under which these authorities operate are not those of New Zealand and were applied in ways that do not meet the WTO norms; and the applicant had failed to undertake any original research so the facts were not contemporary
- The applicant does not know what subsidies apply to the goods, and has not taken steps to identify subsidies that may apply, and therefore fails to meet the requirements of the Subsidies Agreement and the Act to provide evidence of the amount and nature of the subsidy.
- Commentaries and media articles from Reuters and Wiley Rein are not sufficient evidence because they are not objective, are out of date and do not reflect the current situation.
- The Australian investigation into galvanised coil was terminated on the basis of negligible subsidisation, which “dispenses with the myth that the entire Chinese steel industry is in receipt of massive levels of subsidies”.
- The US investigation was for a different product and in a jurisdiction that does not accept that China is a market economy, does not observe WTO rules, and consequently imposes prejudicial and unlawful findings against Chinese exporters.
- The estimation in the application regarding percentage and dollar estimates for subsidisation are simple assertions, since the application includes every subsidy programme found to have existed in the US investigations, and it is not possible that all of these

programmes could apply to the goods covered by the application, while regional-based programmes are specific to regional locations not identified in the application.

Evidence of material injury

The following points were made by the GOC:

- Reference to a decline in pricing due to the subsidised goods being price below a 'normal value' is not relevant to a countervailing duty application.
- The application claims that Chinese exports are being diverted from Australia to New Zealand, but there is no basis for this conclusion.
- Article 15.4 of the Subsidies Agreement which requires the examination of the impact on the domestic industry, includes all relevant factors, such as, output, sales, market share, profits, productivity, return on investment, utilisation of capacity, inventories, employment, wages, growth, ability to raise investment etc. However the evidence in the application alleges declines in profits and price depression, but market share, sales, output, productivity, utilisation of capacity are all admitted as staying the same or having a positive trend. The GOC requested MBIE to exercise caution in evaluating this evidence.
- The applicant confesses that its pricing model is to review price monthly and adjust if required, and this price strategy is aimed at obtaining an advantage against imports. This confuses cause and effect with regard to price depression.

Evidence of a causal link

The GOC claimed that the applicant has failed to make any causal link allegation in the text of the application, which seriously violates Article 11.2 of the Subsidies Agreement. In particular:

- Based on the limited information on imports, it seems that the market share of imports is relatively steady at 10%-13% each month, but the application suggests that the Chinese share is about one quarter, which would mean that the share of the New Zealand market serviced by Chinese galvanised steel coil has varied from 2.5% to around 4%. This can hardly be said to substantially affect the business performance of another competitor with more than 85% market share.
- The limited information in the application notes that imports increased sharply in 2015, but were Chinese imports contributing to the increase, and if so what is the source of the information? If Chinese imports have not increased then how could injury suffered by the applicant in 2014 and 2015 be caused by Chinese imports?
- The chart prepared by the applicant to show galvanised coil import and domestic pricing refers to Chinese price quotes but there is no basis for such quotes without statistical support in 2014 and 2015.
- With regard to the applicant's inability to recover increases in fixed costs, clarity is required as to which fixed costs have increased, since raw material costs globally have shown a decreasing trend over the last two years. So the only possible elements would be labour costs or water and electricity fees. The applicant's financial records do not bear out claims of injury as a result of 'subsidised' Chinese imports. Other factors are at play that are internal to the applicant and to its external environment, and there are no grounds to attribute injury to Chinese imports.

- The Global Trade Atlas contains authoritative and precise data which show that imports from China of the subject goods in 2015 were zero, and if this is the case then the application is a waste of time.

New Zealand public policy

The GOC pointed out that the New Zealand Government had suspended the application of anti-dumping duties on construction materials for three years from 1 June 2014, in order to open trading conditions and competition. The resulting lower prices would be in the public interest. Due to increased demand and the domestic monopoly position of the incumbent manufacturer it would benefit from the increased manufacturing activity and increased sales value. The GOC was unaware of any change in the policies of the New Zealand Government or of any change in the factual circumstances that would change the situation.

Conclusion

Although appreciating MBIE's intentions in seeking further information from the applicant, the supplementary information failed to provide any adequate or accurate evidence to support the applicant's claims, since import figures were based on estimation without disclosing sources.

The GOC considered that the application had no merit and no evidence to support the accusations made – it recites and repeats old or irrelevant information; the injury information is feeble and has nothing to link any alleged lack of profitability to Chinese imports in distinction to general market conditions, the applicant's own costs, and the presence in the market of higher volumes of galvanised steel from other export sources. On this basis, and in terms of the Subsidies Agreement, MBIE should reject the application.