





Galvanised Steel Coil from China Provisional Measures Report

Dumping and Countervailing Duties Act 1988

Non-confidential Version

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Abbreviations

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
ADRP	Australian Anti-Dumping Review Panel
Anti-Dumping Agreement (the)	WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
Australian ADC	Australian Anti-Dumping Commission
BlueScope	BlueScope Steel Limited
CCOIC	China Chamber of International Commerce
Chief Executive (the)	Chief Executive of the Ministry of Business, Innovation and Employment
China	People's Republic of China
CMC	Commercial Metals (an exporter)
CVD or cvd	Countervailing duties
Customs	New Zealand Customs Service
EBIT	Earnings Before Interest and Tax
EU	European Union
FIE	Foreign-invested enterprise
FIS	Free in Store
FY	Financial year
GOC	Government of China
HRC	Hot-rolled coil
HS	International Convention on the Harmonized Commodity Description and Coding System, also Harmonised System
MBIE	Ministry of Business, Innovation and Employment, the
MCL	Metal coating line
NZ	New Zealand
NZD	New Zealand dollar
NZ Steel	New Zealand Steel Limited

ROIC	Return on invested capital
SASAC	State-Owned Assets Supervision and Administration Commission
SIE	State-invested enterprise
SOCB	State-owned commercial bank
SOE	State-owned enterprise
US	United States
US DOC	United States Department of Commerce
USD	United States dollar
Subsidies Agreement, the	The WTO Agreement on Subsidies and Countervailing Measures (also the SCM Agreement)
VFD	Value for Duty
WTO	World Trade Organisation
WTO Agreement	The Agreement establishing the World Trade Organisation adopted at Marrakesh on 15 April 1994
YPC	Yieh Phui (China) Technomaterial Company Limited (a manufacturer)

Confidentiality of Information

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

In these instances the information been redacted or where possible has been summarised in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.

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

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

Executive Summary

Introduction

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

NZ Steel requested that provisional measures be imposed on the allegedly subsidised imports during the remaining period of the investigation.

Goods Subject to the Investigation

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

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

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

Provisional Measures

Under the Dumping and Countervailing Duties Act 1988 (the Act) the imposition of provisional measures requires that:

- At least sixty days have passed from the initiation of the investigation
- The Minister has reasonable cause to believe that the goods are subsidised
- The Minister has reasonable cause to believe that by reason of the subsidisation the industry is suffering material injury
- The Minister is satisfied that provisional measures are necessary to prevent material injury being caused during the remaining period of investigation.

Proceedings

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

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

MBIE initiated the investigation on 19 December 2016, meaning that the sixty day period during which MBIE may not impose provisional measures lapsed on 11 March 2017.

Subsidisation

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

MBIE has assessed the alleged subsidy programmes identified in NZ Steel 's application on the basis of the information provided in the application, questionnaire responses, and other information available to or identified by MBIE. On the basis of the analysis undertaken by MBIE, taking into account the best information available at this point in the investigation, the provisional conclusion is that the aggregate level of subsidisation that can reasonably be identified is 0.02 per cent.

The provisional conclusion is based on information available up to 11 April 2017. Subsequent information obtained by MBIE or made available to it, including through any additional submissions by interested parties could provide a basis to modify this provisional conclusion during the remaining period of investigation.

Injury

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

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

However, in light of the very low subsidy levels provisionally established – below the *de minimis* threshold - it is not possible at this point to conclude that the price undercutting and any consequent impact can be attributed to imports of subsidised goods from China.

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.

Conclusion

On the basis of the provisional findings on the level of subsidisation, MBIE concludes that there are no grounds for the imposition of provisional measures in order to prevent material injury being caused by subsidised imports during the remaining period of investigation.

Next stages of the investigation

The next stage of the investigation is the preparation and circulation to interested parties by 9 June 2017 of the report on the essential facts and conclusions that will likely form the basis for the final determination.

The final determination, to be made by 9 July 2017, will finally establish whether or not the subject goods are subsidised and by reason thereof causing material injury to the industry.

1. Introduction

1.1 Proceedings

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

1.2 Grounds for the Application

4. NZ Steel claimed that the alleged subsidisation of galvanised steel coil from China is causing the company material injury through:
 - increased imports
 - price undercutting
 - price depression
 - price suppressionresulting in:
 - a decline in profits and profitability
 - a decline in return on invested capital
 - a decline in ability to raise capital.
5. NZ Steel stated in its application that the material injury resulting from the importation of allegedly subsidised galvanised steel coil commenced in 2012.

1.3 Provisional Measures

6. NZ Steel requested that provisional measures be imposed. NZ Steel pointed to marketplace events originating from subsidised goods which are causing it to lower its prices and suffer consequential injury. NZ Steel requested that the rate or amount of provisional countervailing duty be the amount of the subsidisation.

7. On 27 March 2017 NZ Steel provided a Provisional Measures Submission to MBIE which referred to information provided during MBIEs' verification visit to NZ Steel, and provided further information on the impact of subsidised Chinese goods and pointed to a need for provisional measures to address injury during the period of investigation. The submission also suggested that the best information is only that which is verified, although this does not reflect MBIE's interpretation of the requirements of the Act or the Subsidies Agreement.
8. This Provisional Measures Report is based on information available to MBIE at this point in the investigation. Where sufficient information has not been furnished or is not available to enable MBIE to ascertain the amount of the subsidy, the available information considered to be reliable has provided the basis for a determination of the amount of the subsidy to be taken into account in considering whether or not provisional measures should be imposed. In terms of the Subsidies Agreement, conclusions have been drawn on the basis of the best information available.

New Zealand Legislation

9. Section 16(1) of the Act provides as follows:

If, at any time after 60 days from the date on which an investigation has been initiated by the Secretary under section 10 (not being an investigation that has been terminated under section 11),—

(a) the Minister has reasonable cause to believe, in relation to the importation or intended importation of goods into New Zealand, that—

- (i) the goods are being dumped or subsidised; and*
- (ii) by reason thereof material injury to an industry has been or is being caused or is threatened or the establishment of an industry has been or is being materially retarded; and*

(b) the Minister is satisfied that action under this section is necessary to prevent material injury being caused during the period of investigation,—

the Minister may, by notice, give a provisional direction that payment of duty in respect of the goods shall be secured in accordance with sections 156 and 157 of the Customs and Excise Act 1996, except that the rate or amount of duty to be secured shall not exceed the difference between the export price of the goods and their normal value, or the amount of the subsidy, as the case may be.

10. Section 16(3) of the Act provides:

A provisional direction given under subsection (1) or subsection (2) shall in all cases cease to have effect following the final determination made by the Minister pursuant to section 13.

WTO Subsidies Agreement

11. Provisional measures are covered in Article 17 of the Subsidies Agreement, which provides:

17.1 Provisional measures may be applied only if:

- (a) an investigation has been initiated in accordance with the provisions of Article 11, a public notice has been given to that effect and interested Members and interested parties have been given adequate opportunities to submit information and make comments;*

(b) a preliminary affirmative determination has been made that a subsidy exists and that there is injury to a domestic industry caused by subsidized imports; and

(c) the authorities concerned judge such measures necessary to prevent injury being caused during the investigation.

17.2 Provisional measures may take the form of provisional countervailing duties guaranteed by cash deposits or bonds equal to the amount of the provisionally calculated amount of subsidization.

17.3 Provisional measures shall not be applied sooner than 60 days from the date of initiation of the investigation.

17.4 The application of provisional measures shall be limited to as short a period as possible, not exceeding four months.

17.5 The relevant provisions of Article 19 shall be followed in the application of provisional measures.

12. The only WTO jurisprudence relating to this Article is to be found in *US — Softwood Lumber III*, when the Panel found that the provisional measures were in violation of Article 17.3 (and 17.4) because they were imposed less than sixty days after the date of initiation of the investigation and because they applied to imports for a period of more than four months. The Panel found that “Article 17.3 and 17.4 of the SCM Agreement are unambiguous, clearly specifying that provisional measures shall not be applied sooner than sixty days after initiation and their application shall be limited to maximum four months.”

13. Article 22.4 of the Subsidies Agreement provides:

A public notice of the imposition of provisional measures shall set forth, or otherwise make available through a separate report, sufficiently detailed explanations for the preliminary determinations on the existence of a subsidy and injury and shall refer to the matters of fact and law which have led to arguments being accepted or rejected. Such a notice or report shall, due regard being paid to the requirement for the protection of confidential information, contain in particular:

- (i) the names of the suppliers or, when this is impracticable, the supplying countries involved;
- (ii) a description of the product which is sufficient for customs purposes;
- (iii) the amount of subsidy established and the basis on which the existence of a subsidy has been determined;
- (iv) considerations relevant to the injury determination as set out in Article 15;
- (v) the main reasons leading to the determination.

Summary of Legal Requirements

14. Under the Act the imposition of provisional measures requires that:

- At least sixty days have passed from the initiation of the investigation
- The Minister has reasonable cause to believe that the goods are subsidised
- The Minister has reasonable cause to believe that by reason of the subsidisation the industry is suffering material injury
- The Minister is satisfied that provisional measures are necessary to prevent material injury being caused during the remaining period of investigation.

15. The Subsidies Agreement includes the following additional requirements:

- Interested Members and parties have had an opportunity to submit information and make comments
- The period of application of provisional measures shall not exceed four months.

Time Frames

16. The investigation was initiated on 19 December 2016. Taking into account the intervening Christmas holiday period of 25 December to 15 January provided for in section 3 of the Act, the sixty-day period referred to in section 16 of the Act expired on 11 March 2017. The 180-day investigation period will conclude on 9 July 2017, by when the Minister must make a final determination. The Essential Facts report is due on 9 June 2017. The four month period referred to in the Subsidies Agreement will depend on when any provisional measures are applied, but they cannot go beyond the date of final determination of 9 July 2017, which is just short of four months from 11 March 2017.
17. Questionnaires were sent to importers (replies due 1 February 2017), manufacturers, trading intermediaries and the GOC (replies due 27 January 2017). This covers the requirement in Article 17 for interested Members and parties to have the opportunity to provide information and comments before the imposition of provisional measures, if any.
18. In addition to the matters raised in its application and during the verification visit, NZ Steel made further submissions on 27 March 2017 specifically regarding provisional measures, and on 6 April 2017 regarding matters raised in questionnaire responses affecting subsidisation.
19. On 11 April 2017, MBIE advised interested parties that the consideration of the need to impose provisional measures, as summarised in this report, would be based on information to 11 April 2017, reflecting the expiration of ninety days since the initiation of the investigation. Information provided after this date will be taken into account in the preparation of the Essential Facts and Conclusions Report.

Requirements for the Imposition of Provisional Measures

20. The standard to be met for the imposition of provisional measures is that the Minister must have “reasonable cause to believe” that there is subsidisation causing material injury, and be satisfied that provisional measures are necessary to prevent material injury being caused during the remaining period of investigation.
21. In this Provisional measures Report the consideration of whether or not there is reasonable cause to believe that there is subsidisation causing material injury and that provisional measures are necessary to prevent material injury being caused during the remaining period of investigation, is based on information available to MBIE as at 11 April 2017. Additions to questionnaire responses or further submissions from interested parties received after that date are not reflected in this report, but may be taken into account in any subsequent consideration.

1.4 Participation in the Investigation

22. Section 7(5) of the Act provides as follows:

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

23. Article 12.7 of the Subsidies Agreement provides as follows:

In cases in which any interested Member or interested party refuses access to, or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available.

24. Information was requested from importers, intermediary exporters, Chinese manufacturers, and the GOC. One importer declined to provide information. Information was provided by many of the intermediary exporters, but only one manufacturer responded to the questionnaire. The GOC provided general comments on programmes identified in the questionnaire, but considered that a GOC questionnaire response would serve no purpose because the GOC was not aware that any Chinese producer intended to submit a questionnaire response the GOC.

25. Information relating to those parties who have not provided information is based on the facts available to this point in the investigation that MBIE considers to be reliable.

1.5 Report Details

26. In this report, unless otherwise stated, financial years (FY) are years ending June and dollar values are New Zealand dollars (NZD). In tables, column totals may differ from individual figures because of rounding. The term VFD refers to value for duty for New Zealand Customs Service (Customs) purposes.

27. The period of investigation for subsidisation is the year ended June 2016, while the investigation of injury involves evaluation of data for the period since July 2011.

28. All volumes are expressed on a tonne basis unless otherwise stated. Exports to New Zealand were generally invoiced in United States dollars (USD). The exchange rates used are those relating to specific transactions, where available, or the Customs exchange rates, or the rate that MBIE considers most appropriate in the circumstances.

2. Subject Goods and New Zealand Industry

2.1 Subject Goods

29. 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.

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

Description	NZ Steel product name	Tariff classification
<p>0.3mm to 1.6mm thick steel coil (width > 600mm) with a hot dipped galvanised (zinc) coating. Produced to AS1397²</p> <p>Galvanised coated steel is also produced in accordance with a number of other International Standards:</p> <ul style="list-style-type: none"> • ASTM A653/A653M • EN 10346 • JIS 3302 <p>The amount of zinc coating is described as the coating mass, nominated in grams per square meter; common coatings are Z100, Z200, Z275, Z450 and Z600</p>	Galvanised steel coil	<p>Up to 31/1/2017 7210.49.31.09</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), 1.6mm or less thick, plated with zinc (not electrolytically)</p> <p>From 1/2/2017</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), plated with zinc (not electrolytically) not alloyed with aluminium</p> <p>7210.49.31.43 thickness less than 0.4mm 7210.49.31.45 thickness 0.4mm or more but less than 0.7mm 7210.49.31.47 thickness 0.7mm or more but less than 1.0mm 7210.49.31.49 thickness 1.0mm or more but less than 1.6mm</p>
<p>Thickness greater than 1.6mm and less than 1.9mm thick steel coil (width > 600mm) with a hot dipped galvanised (zinc) coating. Produced to AS1397</p> <p>Galvanised coated steel is also produced in accordance with a number of other International Standards:</p> <ul style="list-style-type: none"> • ASTM A653/A653M • EN 10346 • JIS 3302 <p>The amount of zinc coating is described as the coating mass, nominated in grams per square meter; common coatings are Z100, Z200, Z275, Z450 and Z600</p>	Galvanised steel coil	<p>Up to 31/1/2017 7210.49.31.01</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), greater than 1.6mm thick, plated with zinc (not electrolytically)</p> <p>From 1/2/2017 7210.49.31.53</p> <p>Iron or non-alloy steel; flat-rolled, width 600mm or more, not worked but coiled (not further clad, plated, coated or corrugated), plated with zinc (not electrolytically), not alloyed with aluminium, of a thickness of 1.6mm or more but not exceeding 1.9mm</p>

² 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.

31. NZ Steel has 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.
32. The subject goods fall under the following Customs tariff item and statistical keys³:
 - 7210.49.31.01
 - 7210.49.31.09
33. NZ Steel states that in late 2015 zinc, aluminium, and magnesium alloy-coated steel was included in the tariff item, whereas previously this product was imported under Harmonised System (HS) Code 7210.61.30.09. According to the applicant, this explains why there was a significant increase in imports, from all countries but especially from Japan, in 2015. The applicant noted that this product is outside the scope of the application.
34. In February 2017, revised statistical keys were introduced covering the tariff item, primarily to differentiate between different coating alloys and to further differentiate product thicknesses.

Imports of Subject Goods

35. Table 2.1 below shows imports of the subject goods and total imports in the most recent year covering the period of investigation of subsidisation. The imports of galvanised steel coil are based on Customs data for the tariff item and statistical keys for the subject goods, adjusted by the removal of data for imports from BlueScope Steel Limited (Bluescope), and imports of steel coil coated with alloys of zinc and aluminium, since the application identifies that these goods are not part of the application. The Customs data includes entries previously misclassified under other tariff items. Further adjustments may be required as the question of like goods is clarified through further investigation.
36. With regard to official import statistics published by Statistics New Zealand, there has been a data-suppression order in place for tariff item and statistical key 7210.49.31.09 (but not for 7210.49.31.01) since June 2013⁴.
37. 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

³ 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.

⁴ Section 37 of the Statistics Act 1975 makes provision for the international trade statistics, together with local authority statistics and business lists, to be subject to less restrictive confidentiality rules than most other statistics. Aggregated data that discloses individual trade transactions is suppressed only if the exporter or importer requests suppression and an identification risk is confirmed. Suppression can be applied for up to 24 months (as is the case for the item here). For the 24-month option only, the importer/exporter will be contacted before the suppression is lifted to see if they want to continue with the suppression. In practice this may result in data being confidential for much longer than 24 months.

7210.90.11.09H and 7210.49.31.09A, showing quantities and values (VFD and cost, insurance and freight) for imports from Australia, Singapore and Other⁵, 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. The data suppression is the reason for the confidential treatment accorded to some of the information in this and other tables showing imports.

Table 2.1: Import volumes (tonnes)
Customs data, adjusted*

	FY2012	FY2013	FY2014	FY2015	FY2016
Australia					
Belgium					
China					
India					
Japan					
Korea					
Taiwan					
USA					
Total	4869	5359	7376	3995	7080

* Adjusted as described in paragraph 35 above.

2.2 Like Goods and New Zealand Industry

38. 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.

39. Section 3(1) of the Act defines **like goods**, in relation to any goods, as:

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

2.2.1 Like Goods

40. 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

⁵ 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. Under respective bilateral agreements, safeguard action cannot be taken against imports from Australia and Singapore, hence the need to separate out such imports in the monitoring process.

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.

41. The scope of the subject goods is defined in section 2.5 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 advised that it manufactures galvanised steel with dimensions of thickness from 0.32 to 1.85mm, widths from 70mm to 1260mm, and grades G250, G300, G450, G500 and G550, with zinc coating masses (gm/m²) of 100, 275, 350, 450 and 600. The grades are as specified in AS1397.⁶
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 grounds outlined below.

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.

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.

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

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. Article 15.6 of the Subsidies Agreement provides that:
- The effect of the subsidized imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.*
51. Information available to this point in the investigation requires that the question of like goods be investigated further. This information includes responses from importer's questionnaires, submissions from the Chinese Chamber of International Commerce, and matters that NZ Steel raised during the domestic industry verification visit. Further investigation is required in light of the limitations on the range (i.e. the maximum width and 'spangle'⁷) of goods produced by NZ Steel, which is a subset of the subject goods. NZ Steel produces widths up to 1260mm with regular spangle, while some imports are of wider coils and zero spangle. This further investigation will be undertaken and completed for the outcome to be included in the Essential Facts and Conclusions report. In the meantime, the consideration of the need for provisional measures is based on the assumption that the New Zealand industry produces like goods to the subject goods.

2.2.2 New Zealand Industry

52. 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.
53. 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.

⁷ "A 'spangle' is the visible aesthetic feature of crystallites on the surface of a galvanized steel sheet. The spangle appears as either a snowflake or a six-pointed star pattern. This is produced on the steel sheet when certain alloying elements are either added to the liquid zinc or available as impurities." Sourced from <https://www.corrosionpedia.com> on 26 April 2017.

3. Interested Parties

3.1 Legal Requirements

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

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

55. Article 12.9 of the Subsidies Agreement provides:

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

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

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

3.2 New Zealand Producer

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

57. Information provided by NZ Steel includes:

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

3.3 Government of China

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

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

60. A questionnaire was provided to the GOC seeking information of both a general nature and also more specifically relating to the identified subsidy programmes, and any assistance

provided to Chinese manufacturers of galvanised steel coil. The GOC provided general comments on programmes identified in the questionnaire, but considered that a GOC questionnaire response would serve no purpose because it was not aware that any Chinese producer intended to submit a questionnaire response.

3.4 Manufacturers

61. Chinese manufacturers supplying galvanised steel coil to New Zealand via a range of intermediary exporters were identified from Customs data and questionnaire responses provided by intermediary exporters and importers.

62. Seven manufacturers were identified. Table 3.1 below shows the Chinese manufacturers that have been identified. The companies are listed alphabetically.

63. Table 3.1: Chinese manufacturers

Manufacturing Company
Angang Steel
Baoshan Iron and Steel Co Ltd
Changsu Everbright Material Tech Limited
Huangshi Sunny Strip Aluminium and Zinc Coated Limited
Jiangyin Zong Cheng Steel Co Limited
Shougang Jingtang United Iron and Steel Co
Yieh Phui (China) Technomaterial Co Limited

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

65. ***Angang Steel/Ansteel (Angang)***

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

67. Angang operates as an integrated steel mill, and is headquartered in Anshan, Liaoning Province, and has production bases in Anshan, Bayuquan and Chaoyang of the northeast region and Panzhihua, Chengdu, Jiangyou, Xichang and Chongqing in Southwest region.

68. Based on invoices provided by importers and exporters, Angang was the [REDACTED] supplier of galvanised steel coil to New Zealand in FY 2016, providing [REDACTED] tonnes of the subject goods.

69. Angang was subject to investigations into the subsidisation of similar products by the Australian and US authorities.

Baoshan Iron Steel Co. Ltd (Baoshan)

70. Baoshan is located in Shanghai, China. The company is a subsidiary controlled by Baowu Steel Group, and was listed for trading at Shanghai Stock Exchange in 2000. Baowu Steel Group is a state-owned enterprise under the supervision of SASAC. Baoshan is an integrated steel producer.

71. Baoshan provided [REDACTED] tonnes of exports of the subject goods to New Zealand in FY2016.

Changsu Everbright Material Tech Ltd (Changsu)

72. Changshu makes thin-gauge galvanised steel coils, used mainly in the automotive and consumer electronics industries. Changshu is located in Changshu, Jiangsu Province, and appears to be a subsidiary of Minmetals Materials (Changshu) Management Co Ltd, part of the state-owned China Minmetals Corporation, which is under direct supervision of the SASAC.

73. Changsu provided [REDACTED] tonnes of the subject goods exported to New Zealand in FY2016.

74. Changsu was subject to investigations into the subsidisation of similar products by the US authorities.

Huangshi Sunny Strip Aluminium and Zinc Coated Ltd (Huangshi)

75. Huangshi produces galvanized sheet steels, aluminium alloy plates, cold rolled sheet steels, and other related products, and is located in Huangshi, Hubei Province. The company website identifies Jin Brand Co Ltd as the holding company, which is primarily a beverage company.

76. Huangshui provided [REDACTED] tonnes of exports of the subject goods to New Zealand in FY2016.

Jiangyin Zong Cheng Steel Co Ltd (Zong Cheng)

77. Zong Cheng is a large-scale foreign-owned enterprise, which manufactures and distributes steel products, including colour coated steel coils, hot dip galvanized steel coils, galvanized steel coils, cold rolled steel coils, pickling coils, and other related products. Zong Cheng is located at Xiagang Industrial Park, Jiangyin, Jiangsu Province.

78. Zong Cheng provided [REDACTED] tonnes of the exports of the subject goods to New Zealand in FY2016.

79. A more detailed summary of Zong Cheng's response to the questionnaire is at paragraph 144.

Shougang Jingtang United Iron and Steel Co (Shougang)

80. Shougang produces iron and steel including steel sheets, pipes and slabs, was founded in 2005 and is based in Tangshan City, Hebei Province. As of 2005, Shougang is a subsidiary of Shougang Group Corp, which is owned by the Government of Beijing (79.40 per cent), with

the parent being the State-owned Assets Supervision and Administration Commission of the Government of Beijing.

81. Shougang is an integrated steel producer.
82. Shougang provided 100,000 tonnes of exports of the subject goods to New Zealand in FY2016.

Yieh Phui (China) Technomaterial Co Ltd (YPC)

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

3.5 Trading Intermediaries

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

Table 3.2: Trading Intermediaries

Exporting company	Company Location
Commercial Metals	Sydney, Australia
CITIC Australia Commodity Trading Pty Ltd	Sydney, Australia
Cumic Steel Ltd	Hong Kong, China
Marubeni-Itochu Steel Oceania Pty Ltd	Melbourne, Australia
RGS Enterprises Ltd	Singapore
Stemcor (SEA) Pte Ltd (Stemcor)	Singapore
Vast Link International Co Ltd	Shanghai (headquarters), China
Yieh Corp	Shanghai, China

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

Commercial Metals (CMC)

89. CMC responded to the questionnaire. CMC's headquarters are in Sydney.
90. CMC is a 100% fully-owned subsidiary of Commercial Metals Company, which is a US-based company, listed on the New York Stock Exchange. CMC is a trading company, primarily in the business of importing steel products into Australia and New Zealand.
91. CMC provided [REDACTED] tonnes of the subject goods exported to New Zealand in FY2016.

CITIC

92. CITIC did not respond to the questionnaire.
93. A more detailed analysis of Customs data has confirmed that CITIC did not handle any of the exports of the subject goods during FY2016.

Cumic Steel (Cumic)

94. Cumic Steel did not respond to the questionnaire. Cumic Steel is based in Hong Kong.
95. Cumic Steel provided [REDACTED] tonnes of the subject goods exported to New Zealand in FY2016.

Marubeni-Itochu (Marubeni)

96. Marubeni provided a response to the questionnaire. Marubeni is based in Melbourne and operates as an intermediary between customers and steel manufacturers.
97. Marubeni provided [REDACTED] tonnes of the subject goods exported to New Zealand in FY2016.

RGS Enterprises Ltd (RGS)

98. RGS provided a limited response to the questionnaire.
99. A more detailed analysis of Customs data has confirmed that RGS did not handle any of the exports of the subject goods during FY2016.

Stemcor (SEA) Pte Ltd (Stemcor)

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

Vast Link

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

Yieh Corp

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

3.6 Importers

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

Table 3.3: Selection of importers

Importing company
Fletcher Steel Limited, trading as Easy Steel
Kiwi Steel Limited
R C Macdonald Limited
Roll Formers New Zealand Limited
Steel and Tube Holdings Limited
Steel Co Limited
Vulcan Steel Limited

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

Fletcher Steel (Easy Steel)

109. Easy Steel imports Chinese-origin steel from [REDACTED]. It also imports non-Chinese origin steel from [REDACTED], and [REDACTED].
110. Easy Steel sells the majority of its products to steel processors, including general engineering companies, structural steel fabricators, and manufacturing companies. These companies process the steel as part of a manufactured product which is then sold to the end user.
111. Easy Steel claims that the imposition of a countervailing duty on Chinese steel imports would result in it raising its prices as part of its aim to provide import parity.
112. Easy Steel imported [REDACTED] tonnes of the subject goods from [REDACTED] and [REDACTED] in FY2016.

Kiwi Steel

113. Kiwi Steel stocks flat-rolled steel products, including the subject goods, and wholesales to manufacturers. Most of the customers are manufacturers of building products. Kiwi Steel's major customers for Chinese galvanised steel products are [REDACTED] and [REDACTED].
114. In FY2016 Kiwi Steel imported [REDACTED] tonnes of the subject goods from [REDACTED] and [REDACTED].
115. Kiwi Steel claims that the imposition of a countervailing duty on galvanised steel coil would not affect the overall balance of galvanised steel sales in New Zealand, because even if the price for the subject goods increases there are other source countries of cheap imports.

R C Macdonald Ltd (RCML)

116. RCML is a [REDACTED] importer of the goods subject to investigation. RCML-imported galvanised coil makes up [REDACTED] of its total sales, and is sold primarily to a New Zealand-based manufacturing company.
117. RCML imported [REDACTED] tonnes of the subject goods from [REDACTED] in FY2016.
118. RCML claims that the imposition of a countervailing duty on the subject good would not change the quantities of the company's imports. RCML believes there would be reduced competition causing an increase in the cost of building in New Zealand.

Roll Formers New Zealand Ltd (Roll Formers)

119. Roll Formers manufactures product from the subject goods, which it sells as finished products into the New Zealand market. Roll Formers is both a customer and supplier of [REDACTED].
120. Roll Formers imported up to [REDACTED] tonnes of the subject goods from [REDACTED] in FY2016.
121. Roll Formers claims it cannot be competitive if using NZ-manufactured steel. It claims a tariff applied to the subject goods would make Roll Formers "totally uncompetitive," ultimately leading to the closure of the company.

Steel & Tube Holdings Limited (STH)

122. STH claims to be the largest manufacturer, supplier and distributor of steel products in New Zealand, including a comprehensive range of structural steel, bar and plate products, and hollow steel sections.
123. In FY2016 STH imported [REDACTED] tonnes of the subject goods from [REDACTED].

Steel Co

124. Steel Co did not providing a response to the questionnaire, citing concerns that the information required would [REDACTED].
125. Steel Co imported [REDACTED] tonnes of the subject goods from [REDACTED] in FY2016.

Vulcan

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

3.7 Other Interested Parties

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

4. Subsidies – Provisional Analysis

4.1 Subsidisation

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

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

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

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

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

- There is a financial contribution by a government or any public body, including a direct transfer of funds (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.

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

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

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

4.2 Basis for Investigation of Subsidisation

133. The information available to MBIE in investigating the subsidisation of galvanised steel coil from China includes:

- Information contained in NZ Steel's application
- Information obtained during MBIE's verification visit to NZ Steel
- Responses by the GOC to the Government Questionnaire
- Responses to importer/exporter/manufacturer questionnaires
- Information arising from MBIE's independent research into the matters raised.

NZ Steel Application

134. In its application, NZ Steel set out the sources of information it used in seeking to identify subsidies available to the subject goods. These sources included subsidy applications by industry and investigations undertaken by Australian and United States investigating authorities, and reports and commentary on the Chinese steel industry. The application listed the subsidy programmes identified by the Australian and United States authorities. For the purposes of estimating an amount of subsidy applicable to the subject goods, on the basis of reasonably available information, the application identified ten subsidies, and provided a breakdown and explanation of the programmes based on US Department of Commerce (US DOC) findings relating to a cooperating Chinese producer.
135. NZ Steel pointed to general commentary about the extent to which the Chinese steel industry is allegedly benefitting from various forms of subsidies to a material level. It quoted a number of published articles on the Chinese steel industry, including Reuters (UK), which claimed that subsidies accounted for significant and growing percentages of revenue in 2013-2014, and that government subsidies, largely from local governments, were channelled to the steel, cement and property sectors in the form of cash, tax rebates or support for loan repayments. News agency summaries of a 2007 report by Wiley Rein LLP, updated in 2010, were also cited, with the report documenting allegedly massive government subsidies covering preferential loans and directed credit, equity infusions and/or debt-to-equity swaps, land-use discounts, government-mandated mergers, and direct cash grants. The application stated that these articles outline the extent and impact of the subsidisation of the Chinese steel industry.
136. NZ Steel believed that these commentaries showed that the expansion of the Chinese steel industry was the direct result of the GOC's direction and control of the industry, and its bestowal of an extraordinary range of subsidies to Chinese steel producers. According to NZ Steel, this showed that the growth of China's steel industry was being both financed and directed by the GOC. NZ Steel noted that eight of the ten largest Chinese steel groups are

one hundred per cent owned or controlled by the GOC, while 19 of the top 20 groups are majority owned or controlled by the government.

137. In the Initiation Report, MBIE noted that reports and news articles will not normally by themselves provide sufficient evidence of the existence of subsidies, but need to be considered in the context of other sources of information, and an understanding of the perspective of the authors of the reports.
138. The information provided by NZ Steel in its application identified the type of subsidy that could be available for manufacturers and exporters, and estimated levels of subsidy, based on information relating to findings from countervailing duty investigations undertaken in other jurisdictions.
139. NZ Steel stated that it had been unable to identify the mills supplying New Zealand so was unable to conclude whether programmes relating to particular regions might be applicable. This is particularly relevant in the case of programmes involving non-integrated mills, foreign-invested enterprises (FIEs), State-invested enterprises (SIEs), and those which relate to particular regions, provinces or municipalities.
140. The claims that the programmes are specific subsidies were based primarily on the findings of US DOC and other investigating authorities, while the rates of alleged subsidy found were based on US DOC's calculations using a range of benchmarks. It appears from the information provided that to a large extent the US DOC findings were based on 'facts otherwise available' and 'adverse facts available', and in particular on findings from other investigations (including investigation involving products other than the subject goods).
141. For the programmes identified by NZ Steel and for which more detailed information was provided as noted above, the level of alleged subsidy totalled 39.05 per cent. This reflected the total of the amounts of benefit provided by the subsidy programmes concerned to the cooperating producer (YPC), as established by the US authorities. This total included a subsidy identified as the provision of primary aluminium at less than adequate remuneration, but since the subject goods do not include alloy-coated steel, this programme has not been included in MBIE's considerations. The total level of alleged subsidy identified from the application is therefore 38.99 per cent.
142. In the Initiation Report MBIE noted that some of the programmes identified were not relevant or no longer applied. Nevertheless, MBIE considered that the information provided in the application provided sufficient evidence to initiate the investigation, in relation to identified programmes, of the nature and amount of alleged subsidisation available to the subject goods, including the types of alleged subsidisation and the bases for concluding that they are specific subsidies.

GOC Questionnaire Response

143. In its questionnaire response the GOC provided general comments relating to the alleged subsidy programmes, which it claimed demonstrated that the alleged programmes did not meet the subsidy definition set out in Article 1.1 of the Subsidies Agreement. The GOC claimed that it was able to provide only general responses because any specific assistance

received by Chinese producers⁸ of galvanised steel coil is not known by the GOC due to the lack of cooperation with the investigation by such producers.

144. The GOC response attached copies of a range of laws, regulations, rules and guidelines to support the general comments.

Exporter/Manufacturer Questionnaire Responses

145. Exporter Questionnaires were sent to known exporters, but these companies were intermediaries who are unlikely to be involved in any of the subsidy programmes under investigation.

146. Manufacturer's Questionnaires were sent to all of the known manufacturers. The only Manufacturer's Questionnaire response was received from JiangYin Zong Cheng Steel Co Ltd (Zong Cheng).

JiangYin Zong Cheng Steel Co Ltd (Zong Cheng)

147. Zong Cheng provided a detailed response to the questionnaire. Zong Cheng, which was established in 2004 as a wholly foreign-owned enterprise, is located in Jiangyin City, Jiangsu Province, China.

148. In FY 2016 Zong Cheng exported [REDACTED] tonnes of the subject goods to [REDACTED]. Total exports to New Zealand included shipments of galvanised steel coil falling outside the description of the subject goods because the coil was thicker than 1.9mm. Zong Cheng does not actively seek orders in export markets, but receives orders from [REDACTED]. Upon receiving an order inquiry from [REDACTED], Zong Cheng [REDACTED] which takes account of the [REDACTED]. Upon acceptance by [REDACTED] and agreement of terms and conditions, [REDACTED], with hot rolled coil feed material being purchased for a particular order. Prices are [REDACTED]. A [REDACTED] sale.

149. Zong Cheng provided specific comments on the alleged subsidy programmes.

150. A verification visit has not been made to the premises of Zong Cheng, nor is it intended that such a visit will be made. Verification visits are not required by Act or the Subsidies Agreement.⁹ The extent to which the information provided by Zong Cheng can be considered reliable is assessed by MBIE in the context of all of the information available.

⁸ Zong Cheng did provide a questionnaire response, but this is not reflected in the GOC response.

⁹ See *Argentina – Ceramic Tiles*, relating to the Anti-Dumping Agreement, which noted, at footnote 65, page 178, "There does not exist a requirement in the Agreement to carry out investigations in the territory of other Members for verification purposes. Article 6.7 of the Anti-dumping Agreement merely provides for this

Other Manufacturers

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

Other information

152. MBIE has undertaken further research into matters relating to the alleged subsidisation of Chinese production and exports of galvanised steel coil to New Zealand, including the review of the investigations by other authorities referred to in the application, and the various general commentaries identified by the applicant.
153. NZ Steel has made submissions on matters relating to provisional measures and the interpretation of the best information available, including references to European Union (EU) investigations.

Australian Investigations

154. MBIE undertook a review and analysis of reports of Australian subsidy investigations into goods from China, and in particular the various reports in Investigation 193¹⁰ into the alleged subsidisation of zinc coated steel and aluminium zinc coated steel from China. The information from Australian investigations includes questionnaire responses from Chinese manufacturers who are also parties to the current investigation.
155. The Australian Investigation 193 concluded that galvanised steel exported from China was subsidised with the following subsidy margins:

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

US DOC Investigations

156. The US DOC outlined the basis for its consideration of issues relating to the existence and amount of subsidies on certain corrosion-resistant steel products from China in the Issues

possibility. While such on-site verification visits are common practice, the Agreement does not say that this is the only way or even the preferred way for an investigating authority to fulfil its obligation under Article 6.6 to satisfy itself as to the accuracy of the information supplied by interested parties on which its findings are based." This finding was endorsed by the panel in *Egypt — Steel Rebar* (WTO document WT/DS211/R, p 79). The Subsidies Agreement, in Article 12.6, contains similar provisions to the Anti-Dumping Agreement.

¹⁰ <http://www.adcommission.gov.au/cases/Documents/064-REP193.pdf> last accessed on 3 April 2017.

and Decision Memorandum for the Final Determination¹¹ in that case. In that case, YPC was the sole cooperating mandatory respondent in the proceeding, and the analysis of programmes related to that company.

157. In its Memorandum the US DOC continued to find that companies producing hot-rolled steel, cold-rolled steel, zinc, and primary aluminium purchased by YPC were “authorities” within the meaning of the US legislation. These findings and similar conclusions regarding other suppliers were because the companies concerned possessed, exercised, or were vested with governmental authority. The US DOC also noted that the GOC had failed to cooperate to the best of its ability in responding to the US DOC’s requests for information, so remaining producers were considered to be “authorities” on the basis of adverse facts available. In addition to failing to provide information on specific input suppliers, the GOC had failed to respond to explicit requests for information on the extent that owners, managers, or directors of a producer were officials of the Chinese Communist Party, or were otherwise influenced by state-owned entities.
158. The US DOC found that State-owned enterprises (SOEs) in China possess, exercise, or are vested with governmental authority. The US DOC claims that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.
159. The US DOC also relied primarily on adverse facts available to conclude that input subsidies were specific, and also that benchmark prices in China could not be used.
160. A similar rationale was used as the basis for determining that the provision of electricity at less than adequate remuneration was a specific subsidy.
161. The outcome of the US investigation was to establish subsidy rates as follows:
- | | |
|--|---------|
| Yieh Phui (China) Technomaterial Co Ltd | 39.05% |
| Angang Group Hong Kong Company Ltd | 241.07% |
| Baoshan Iron & Steel Co Ltd | 241.07% |
| Duferco S.A , Hebei Iron & Steel Group, and
Tangshan Iron and Steel Group | 241.07% |
| Changshu Everbright Material Technology | 241.07% |
| Handan Iron & Steel Group | 241.07% |
| All-Others | 39.05% |

WTO Documentation and Dispute Settlement Reports

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

¹¹ <http://enforcement.trade.gov/frn/summary/prc/2016-12962-1.pdf> last accessed on 3 April 2017.

4.3 General Interpretation

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

Best Information Available

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

165. The conclusions reached by MBIE are based on all available information that MBIE considers to be reliable. In accordance with Article 12.7 of the Subsidies Agreement, where any interested Member or interested party refuses access to or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, determinations relating to provisional measures may be made on the basis of the facts available. It should be noted that the Subsidies Agreement does not include an equivalent to Annex II of the Anti-Dumping Agreement which sets out provisions to be observed in applying the equivalent provision in that Agreement. The lack of such an Annex was a deliberate decision by the negotiators of the Subsidies Agreement.¹²

166. With regard to the information to be considered and the basis for its evaluation, the Appellate Body, in *US – Carbon Steel India*¹³ accepted the Panel view that the standard in Article 12.7 of the SCM Agreement requires that all substantiated facts on the record be taken into account, that "facts available" determinations have a factual foundation, and that "facts available" be generally limited to those facts that may reasonably replace the missing information. The Appellate Body added the requirement that the purpose of the process was to facilitate arriving at an accurate determination. The Appellate Body also noted, "we would expect that a process of reasoning and evaluation in respect of the "facts available" on the record flows from the legal standard for Article 12.7, although the degree and nature of the reasoning and evaluation required will depend on the circumstances of a particular case. Where there are several "facts available" from which to choose, it would seem to follow naturally that the process of reasoning and evaluation would involve a degree of comparison."

¹² However, the view of the Appellate Body in *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436), WTO document WT/DS436/AB/R, noted "Thus, while Annex II to the Anti-Dumping Agreement does not form part of the SCM Agreement, it has been found by the Appellate Body to be relevant context for the interpretation of Article 12.7."

¹³ *United States – Countervailing Measures on Certain Hot-Rolled Steel Flat Products from India*, WT/DS436/AB/R.

167. In the Initiation Report, MBIE noted that care needed to be taken in assessing the use of information from investigations and findings of counterpart authorities. While this information was considered to provide a basis for sufficient evidence of the existence of subsidisation, MBIE noted that in many cases the conclusions were based on assumptions arising from the alleged failure of Chinese parties to provide information to the investigating authorities.
168. With regard to the information relating to Australian and US investigations into similar products, MBIE notes that widely differing subsidy rates were found for the same Chinese manufacturers, e.g. Australia determined that the subsidy margin for Angang was negligible, while the US determined it to be 240.07 per cent, and for YPC the respective rates were 5.2 per cent and 39.05 per cent. While these differences may reflect the particular situations of each investigation, they do illustrate the need for caution in assessing the reliability of the information derived from those sources.

Public Body

169. Under Article 1.1 of the Subsidies Agreement a subsidy exists if there is a financial contribution by a government or any public body. A number of the programmes investigated relate to claims that there is a financial contribution by a government or any public body, where the entity providing the financial contribution may not be a part of the government in the narrow sense of being an agency of government at a national or sub-national level, but does have characteristics or functions that suggest that it is exercising governmental authority or functions.
170. It is clear from the WTO jurisprudence that any approach to developing a basis for determining whether or not an entity is a 'public body' for the purposes of a subsidy investigation, must be carefully considered, bearing in mind the Appellate Body's view that an investigating authority must avoid focusing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant. MBIE has undertaken an analysis of the WTO jurisprudence¹⁴, and concludes that the key elements to be investigated when determining whether or not an entity is a 'public body' include:
- The context, including the scope and content of government policies relating to the sector.
 - The entity's core characteristics and functions.
 - The governmental authority and functions involved.
 - The relationship between the entity and the government
 - The nature of the entity's performance of the functions at issue.

¹⁴ WTO Appellate Body and Panel Reports for *United States — Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (DS379); *United States — Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436); *United States — Countervailing Duty Measures on Certain Products from China* (DS437).

171. The evidence to be assessed, bearing in mind that this is not an exhaustive list and will not necessarily be determinative on its own as to whether an entity is a public body, includes:
- The statutory basis for the entity and whether there is an express delegation of authority or functions.
 - The extent to which the entity is exercising authority or functions in a sustained and systematic practice.
 - Evidence that a government exercises meaningful control over an entity such that the entity possesses governmental authority and exercises such authority in the performance of governmental functions.
 - The ownership of the entity, including the extent of government ownership.
 - Whether the entity has the power to regulate.
 - Whether the entity has the power to entrust or direct a private body to undertake the functions in Article 1.1(a) of the Subsidies Agreement.
 - Whether the government uses the entity's resources as its own.
 - The extent of government involvement in entity governance, including presence on the board of directors.
 - The extent of government control over activities.
 - The extent to which the entity operates in pursuit of governmental policies or interests.
172. The identification of an entity as a "government or any public body" does not, on its own, provide a basis for concluding that a subsidy exists. There must be a financial contribution in the form of one of the activities set out in Article 1.1(a)(1)(i)-(iv) of the Subsidies Agreement, which also confers a benefit to the recipient, and which is specific.
173. The issue of whether or not there is a financial contribution by a public body arises in relation to the following programmes specifically identified for investigation:
- Policy loans to the corrosion-resistant steel industry
 - Provision of input materials at less than adequate remuneration
 - Provision of electricity at less than adequate remuneration
 - Export buyer's credits.
174. With regard to the context within which commercial activity is undertaken in China, it is useful to note the comments by the Appellate Body in DS379, that "no two governments are exactly alike, the precise contours and characteristics of a public body are bound to differ from entity to entity, State to State, and case to case".
175. China's Constitution¹⁵ states that the People's Republic of China "is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants," and that the state organs "apply the principle of democratic centralism", while "The state ensures the consolidation and growth of the state economy." The Constitution is clear that the state is the controlling body. Since the 1970s, China has

¹⁵ <http://en.people.cn/constitution/constitution.html> accessed on 2 April 2017.

moved towards a more market-oriented mixed economy under one-party rule. Today, China can be characterized as having a market economy based on private property ownership, and is one of the leading examples of state capitalism. The state still dominates in strategic "pillar" sectors such as energy production and heavy industries, but private enterprise has expanded enormously.

176. In this context, it is not surprising that many manufacturing enterprises in the steel sector, and financial institutions in the economy as a whole are owned partly or fully by the State, and that they operate within an environment of broad government policies and plans for the development of the sector. However, as the WTO Appellate Body has recognised, ownership on its own is not sufficient to bring such entities into the ambit of Article 1.1(a)(1) of the Subsidies Agreement, and there needs to be an examination of the extent to which the entity is, in fact, exercising governmental authority or functions in a sustained and systematic practice. MBIE notes the view of the Australian Anti-Dumping Review Panel (ADRP) that active compliance with governmental policies and regulations does not equate to the exercise of governmental functions or authority, and acting in accordance with a government policy and carrying out government functions should not be conflated.

4.4 Subsidy Programmes

4.4.1 Identified Programmes

177. The alleged subsidy programmes identified in the application are as follows:

Programme number	Programme description	Programme type	Level of Alleged Subsidy
1	Policy loans to the corrosion-resistant steel industry	Grants or loans	0.86%
2	The provision of land-use rights for less than adequate remuneration	Goods or services	0.36%
3	The provision of hot-rolled steel at less than adequate remuneration	Goods or services	23.74%
4	The provision of cold-rolled steel at less than adequate remuneration	Goods or services	2.11%
5	The provision of zinc at less than adequate remuneration	Goods or services	0.22%
6	The provision of electricity at less than adequate remuneration	Goods or services	0.58%
7	Import tariff exemption for FIEs and certain domestic enterprises using imported equipment in encouraged industries	Revenue foregone	0.56%
8	Export buyer's credits	Grants or loans	10.54%

9	Reported grants	Grants or loans	0.02%
	Total		38.99%

178. MBIE notes that the investigation may later go on to identify other subsidy programmes that are providing a benefit to producers in relation to goods exported to New Zealand.

4.4.2 Policy loans to the corrosion-resistant steel industry

NZ Steel Application

179. NZ Steel’s 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 ‘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.
180. The policy documents provide for loans from policy banks and state-owned commercial banks in China (the China Development Bank and the Export-Import 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 per cent.

GOC Questionnaire Response

181. The GOC asserts that there is no government programme consisting of “policy loans” to the industry. Any loans are of a commercial nature based on market operation.
182. The GOC noted that there are rules governing working capital loans and provided documentation for “Interim Measures for the Administration of Working Capital Loans”. The GOC claimed that industrial policy is not a consideration for loans made to any companies, and pointed out that the “Capital Rules for Commercial Banks (provisional)” establish tight disciplines applied by the China Banking Regulatory Commission over the size of capital and related ratios that impinge heavily on loan management in general and risk management of loans in particular. It was also pointed out that the People’s Bank of China had deregulated its limitation on interest rate floors by commercial banks.
183. The GOC response outlined the disciplines established under the Capital Rules and the deregulation policies undertaken by the People’s Bank of China, including the amended “Guidelines on Internal Control of Commercial Banks” which came into effect in 2014, aimed at further liberalising the autonomous business governance of commercial banks in China. The GOC also noted the increased cooperation of the China Banking Regulatory Commission with overseas banking regulators.
184. The GOC emphasised that the state-owned commercial banks (SOCBs) in China are not public bodies, and do not possess, exercise or are vested with governmental authority, and

the fact that these banks are owned wholly or partially by the GOC cannot, *per se*, establish that they are public bodies. In fact, the majority of state-owned commercial banks in China are listed companies in China or Hong Kong, with independent commercial operations and corporate governance, complying with listed company rules in those locations, and are subject to the supervision of securities regulatory authorities.

Zong Cheng Questionnaire Response

185. Zong Cheng advised that its financial resources are derived from external borrowings from various Taiwanese banks, because the applicable loan rates were substantially lower than those from local Chinese banks.

186. Details of the loans from Taiwanese banks in FY2016 were provided by Zong Cheng.

Further Information

187. MBIE has reviewed the available findings from other jurisdictions, including the US DOC countervailing duty investigation of certain corrosion-resistant steel products from China in 2016, and the WTO Appellate Body report in DS379.

188. In its report on DS379, when considering the US DOC treatment of SOCBs, the WTO Appellate Body, concluded that in the *Coated Free Sheet (CFS)* case “it seems to us that in its CFS Paper determination, the US DOC did consider and discuss evidence indicating that SOCBs in China are controlled by the government and that they effectively exercise certain governmental functions.” The Appellate Body noted that in the *Off-the-road Tyres* investigation, this analysis was incorporated by reference, and while the Appellate Body’s view was that merely incorporating by reference findings from one determination into another determination will normally not suffice as a reasoned and adequate explanation, nonetheless, where there is close temporal and substantive overlap between the two investigations, such cross reference may, exceptionally, suffice. In those cases there was only a year’s difference in the period of investigation (2005 and 2006).

189. Given the Appellate Body’s views regarding the temporal relationship affecting the ability to incorporate findings by reference, MBIE considers that care needs to be taken in seeking to rely on earlier findings, although it notes that the US DOC consideration of *Corrosion-Resistant Steel* related to a period of investigation of 2014, with findings published in 2016.

190. In *Corrosion-Resistant Steel* the US DOC rejected the GOC claims that the enactment of new Capital Rules in 2013 had made substantial changes to China’s commercial banking sector, including the elimination of industrial policies as a consideration for the provision of loans, by noting that there was a distinction between *de jure* reforms of China’s banking sector, and *de facto* banking practices. The US DOC suggested that insufficient time had elapsed to see clearly the definitive *de facto* results of the incremental reforms and regulatory initiatives, and also noted that the new Capital Rules addressed only capital adequacy and loan management standards, and not the use of policy considerations or the role of government in the financial system. The US DOC saw no reason to contradict findings from earlier cases that China’s banking sector did not operate on a commercial basis and was subject to significant distortions, primarily arising out of the continued dominant role of the

government in the financial system and the government's use of banks to effectuate policy objectives.

191. The US DOC concluded that policy loans were provided by public bodies and were specific because loans were directed by the GOC to the corrosion-resistant steel industry, and there was no evidence that the revised legal situation had made any difference to practice. In support of this view, it noted public statements by the People's Bank of China.
192. The Australian authorities, in Investigation 193, looked at capital injections into a state-owned producer of galvanised steel, and concluded that there was a countervailable subsidy, based on best information available.
193. NZ Steel's submission of 6 April 2017 cited European Commission findings with regard to organic coated steel products (OCS) in which a failure to provide information led to subsidy amounts being determined on the basis of the facts available, with a weighted average subsidy of 0.97 per cent being calculated. NZ Steel claims that this is the best information available.

4.4.3 Provision of land use rights for less than adequate remuneration

NZ Steel Application

194. NZ Steel's application claimed that all land in China 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 was unable to identify the Chinese mills supplying New Zealand or their location so was unable to identify the charge for land-use rights. The US DOC calculated the level of subsidy at 0.36 per cent, based on the use, in another investigation, of costs in Thailand as a benchmark.

GOC Questionnaire Response

195. The GOC claims that there is no programme covering the provision of land-use rights, and there is no evidence that the GOC "provides lease agreement and then transfers land-use rights to companies for little or no cost."
196. In 1998 the Land Administration Law was promulgated and since then all land use rights have been granted in return for fees, with exceptions relating to governmental entities and military entities; municipal infrastructure and social welfare facilities; energy, transportation, and irrigation facilities with government support; and other entities explicitly set out by laws and regulations.
197. In 2001, the Ministry of Land Resources issued a Catalogue of Allocation of Land (MOLAR Decree 9), which set out the categories for allocated land, but land for profit driven industrial and commercial use was not included in those categories. The Regulation on the Implementation of the Land Administration Law of the People's Republic of China, and the Provisions on the Assignment of State-owned Construction Land Use Right through Bid, Invitation, Auction, and Quotation, provide that with respect to land for industry, commerce, tourism, entertainment, commercial housing or other business operations, or on which there are two or more intended land users, the assignment shall be conducted through bid invitation, auction or quotation.

198. The GOC pointed out that it does not set or direct the land-use right price specific to any industry or any region. The transfer of land-use rights in China is based on market principles, and the price is typically determined by public bidding, public auction, independent appraisal and negotiations, according to Article 29 of the Regulation on the Implementation of the Land Administration Law.
199. The GOC also pointed out that in China all industries have access to obtaining land-use rights in accordance with relevant laws and regulations, so the alleged programme is not specific.

Zong Cheng Questionnaire Response

200. Zong Cheng advised that it did not consider that it had benefited from this programme because it acquired land-use rights at the prevailing market price. Under Chinese law, land-use rights are granted for a maximum of fifty years, and in the case of Zong Cheng, the relevant government body is the Jianyin Bureau of Land and Resources.
201. Zong Cheng provided documentary information relating to the price paid for land-use rights, indicating that the land-use right was acquired on the basis of market prices.

Further Information

202. In the US investigation into certain corrosion-resistant steel products from China, the US DOC, in its decision memorandum for the preliminary affirmative determination¹⁶, concluded that because the GOC had not provided information on any Jiangsu province iron and steel industry plans in place during the period 2001-2014 (the GOC having indicated that to the best of its knowledge there were no specific such plans), so the US DOC found that as facts available, the Jiangsu province does have such plans and that Jiangsu province provides preferential land-use rights at less than adequate remuneration, and that such land provision is specific because it is limited in numbers to the corrosion-resistant steel industry.
203. In the Australian Investigation 193, the programme investigated was described as a land-use tax deduction, rather than preferential terms for land-use rights. No cooperating exporters received financial contributions under this programme. One non-cooperating exporter was considered not to have received a subsidy because it would not be eligible, while other non-cooperating exporters did not provide information and were therefore deemed to have received the subsidy, with the amount based on that calculated in an earlier investigation (Hollow Structural Sections, Investigation 177: July 2012). That earlier investigation noted that a previous investigation (Toilet Paper, Investigation 138) had concluded that a programme for land use deductions for FIEs was not a countervailable subsidy.
204. In its submission of 6 April 2017, NZ Steel cited European Commission findings in the Organic Coated Steel investigation which indicated that prices for land were often set

¹⁶ <http://enforcement.trade.gov/frn/summary/prc/2015-28453-1.pdf> last accessed on 4 April 2017.

arbitrarily by the authorities, and in accordance with the Urban Land Evaluation System, which instructs them among other criteria to consider also industrial policy when setting the price of industrial land. NZ Steel noted that the EU findings included locations in Jiangsu province where Zong Cheng is located.

4.4.4 Provision of input materials at less than adequate remuneration

NZ Steel Application

205. NZ Steel's application claimed that mills receive a financial contribution from a public body in the form of provision of hot-rolled coil (HRC), cold-rolled coil, zinc and primary aluminium at less than adequate remuneration. NZ Steel understands that these materials are predominantly produced in 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.
206. The US DOC calculated the amounts of subsidy as 23.74 per cent for HRC, 2.11 per cent for cold-rolled steel, 0.22 per cent for zinc, and 0.06 per cent 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.
207. 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.

GOC Questionnaire Response

208. The GOC asserts that there is no government programme for the provision of goods or services to the galvanised steel industry at less than adequate remuneration. The GOC emphasises that none of the input suppliers that produce HRC, cold-rolled steel and zinc are "public bodies" within the meaning of Article 1.1(1)(a) of the Subsidies Agreement.
209. In particular, the GOC rejected NZ Steel's claim that input materials are predominantly produced in SIEs in China which are public bodies, and cited WTO Appellate Body findings which counter such a conclusion.
210. The GOC noted that economic structure differs from country to country. China has transitioned from a planned economy to a market economy and this process has included the reform of state-owned enterprises. As a result state-owned enterprises operate in the same manner as other market players in response to market forces. Therefore, input producers in China are independent business entities, operating on a commercial basis, making decisions independently with respect to their day-to-day commercial operations, including production, contract signing, price setting, and commercial negotiations, without any interference or influence from any government agencies.
211. Input producers are bound by and comply with the Company Law of the People's Republic of China. Key provisions of this law include Article 36, which prescribes that the

shareholders' meeting of a limited liability company is the authority of the company and shall exercise its powers according to the Law; Article 37 which prescribes that the shareholders' meeting shall determine all the significant operational issues and plans for the company; Article 46 which prescribes that the board of directors shall be responsible for the shareholders' meeting and shall implement the resolutions made at the shareholders' meetings as well as manage daily business operations; Article 49 which prescribes that the manager shall be responsible for the board of directors and oversee the daily management of the company; and Article 147 which prescribes that the directors, supervisors and senior managers shall comply with the laws, administrative regulations, and bylaw, and shall bear the obligations of fidelity and diligence to the company. The articles of association of a company establish the corporate governance structure and are formulated by the shareholders in compliance with the Company Law.

212. The GOC further stresses that the prices of inputs function in accordance with market dynamics. The HRC, cold-rolled steel and zinc markets in China operate under market conditions, and the GOC does not interfere in or influence pricing in these markets.
213. The GOC also argues that because there is a vast and virtually unlimited number of industrial uses for HRC, cold-rolled steel and zinc, the galvanised steel industry is not a disproportionate or predominant consumer of these goods. The GOC does not impose any limitations on the consumption of these inputs by law or policy. Sales and purchases are necessarily dictated by the market and driven by the forces of supply and demand. The GOC argues that on this basis there is no specificity in the provision of the input goods within the meaning of Article 2 of the Subsidies Agreement.

Zong Cheng Questionnaire Response

214. Zong Cheng advised that it purchased HRC as an input, and provided details of the companies concerned and the purchases made over FY2016. All but one of the providers was a state-owned enterprise.
215. Zong Cheng provided details of transactions for FY2016, with supplies of HRC coming both via trading companies and from producers themselves. Based on this information, and in particular in relation to the three major supplying companies, it appears that prices have differed between them, while over the period there was a decline over the first quarter before a fairly significant rise in prices (in RMB), over the last six months of the period.

Further Information

216. MBIE has identified the manufacturers of galvanised steel coil exported to New Zealand, and has confirmed that Angang, Baosteel and Shougang are integrated steel producers which produce HRC and cold-rolled steel.
217. In the 193 Investigation, Australian authorities found that Chinese state-owned enterprises producing HRC were "public bodies", based on findings from the hollow structural sections case (HSS - REP 177 and REP 203). In the HSS case there was a review by the Trade Measures Review Officer (TMRO) who, after a careful review of the WTO Appellate Body findings, reached the conclusion that hot-rolled coil producers were not public bodies. A reinvestigation by the Australian authorities concluded that there was sufficient evidence

to consider SIEs that produce and supply HRC to be “public bodies”. The grounds were that the SIEs were exercising government functions and there was evidence that the government exercises meaningful control over SIEs and their conduct, and that in performing government functions SIEs were controlling third parties.

218. However, the ADRP, with regard to Investigation 193, after also carrying out a careful analysis of the “public body” decision against the criteria identified by the TMRO, concluded that there was no material in the HSS reinvestigation or which was relied upon by the Australian authorities in Report 193, which demonstrated that there had been a delegation of governmental authority to the SIEs to impose State-mandated policies on participants in the iron and steel industry in China. The material did not, in the view of the ADRP, support a finding that the control exercised over the SIEs by the GOC was such that they were “instruments” of the GOC.
219. MBIE notes that in a subsequent Australian case (Rebar and Rod in Coils, Investigation 322¹⁷) the Australia ADC considered that an integrated mill that was a public body providing billet to itself was a benefit from a public body. This was on the basis that inputs (coking coal) into billet production were sourced from an SIE at less than adequate remuneration, and the benefit extended to the production of the billet, so the internal supply of the billet is a benefit. MBIE considers that this leads to a risk of double counting, particularly if the internal accounting provision for billet costs was treated as being at less than adequate remuneration. This risk also applies in relation to coil produced from the billet which is also an input into galvanised coil. For these reasons MBIE would not be comfortable pursuing this approach.
220. In the same case, the Australian ADC noted that WTO dispute settlement findings made subsequent to the ADRP conclusions, clarified “meaningful control” to the extent that Chinese suppliers of inputs could be considered to be “public bodies”. However, MBIE does not agree with this interpretation of the WTO Appellate Body findings in those cases. In particular, the Appellate Body considered that in *US – Carbon Steel (India)* the Panel erred in its interpretation of Article 1.1(a)(1) by construing the term “public body” to mean any entity that is “meaningfully controlled” by a government, and the suggestion that a government’s ability to control an entity was determinative for purposes of establishing whether the that entity constitutes a public body¹⁸.
221. In its submission of 6 April 2017, NZ Steel provided information to support claims that providers of input materials were primarily government-owned, and also provided information from an EU investigation concerning the calculation of the amount of the subsidy. In the submission, NZ Steel also provided information supporting claims that

¹⁷ Final Report 322 – Steel Reinforcing Bar – China page 74,
<http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-322.aspx>

¹⁸ In fact, the Panel did not say this, it concluded that “...in certain circumstances, a body may be found to be public in nature when it is subject to “meaningful control” by the government. We further recall that government shareholding, when combined with other factors, may well be indicative of the government's “meaningful control” of an entity.” WT/DS436/R, at paragraph 7.89, emphasis added.

providers of input materials are public bodies, citing the main functions of the SASAC and regulations on the supervision and management of state-owned assets. Investigations by authorities in Canada, Australia, and the EU, which concluded that steel SOEs were public bodies.

4.4.5 Provision of electricity at less than adequate remuneration

NZ Steel Application

222. NZ Steel's application noted that electricity rates are set differently in different provinces, and preferential rates are used as an industrial policy tool to encourage high added-value 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).
223. The application recorded that the US DOC calculated the level of subsidy at 0.58 per cent. This was 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. The calculation takes account of fluctuating rates throughout the year.

GOC Questionnaire Response

224. The GOC noted that electricity is used by nearly all industries in China. Electricity prices are classified by end user categories such as residential use prices, agricultural use prices, large industry use prices and/or industrial and commercial use prices. Within each category, for each province in question, the electricity prices are applied equally to all end users, so there is no specificity with regard to the provision of electricity.
225. The GOC stated that electricity prices in China are based on market principles. The relevant pricing authorities are required to take into account the overall demand and supply present in the electricity market, as well as the costs of electricity generation and transmission. The retail prices of electricity consist of four parts: purchasing cost, transmission prices, transmission losses, and governmental surcharges. The differences in these costs as well as other costs like coal and coal transportation prices, among others, are analysed mainly on an enterprise as well as on a provincial basis. Differences in rates in different provinces arise from differences in electricity costs, but within one province electricity prices are equally applied to all end users.

Zong Cheng Questionnaire Response

226. Zong Cheng purchases electricity from the State Grid Corporation of China (SGCC), Jiangsu Province, Jiangyin Branch. Zong Cheng advised that there is no discount or reduction in price for electricity purchased, and it pays on a monthly invoice. Zong Cheng understands that prevailing electricity prices in China are high relative to other countries and are higher than that being claimed by the applicant. Electricity prices are determined by the GOC but Zong Cheng has no understanding or information about electricity prices in other provinces and how they compare to the prices paid by Zong Cheng. Zong Cheng provided information on comparative electricity prices in a range of countries, showing that industrial electricity is cheaper in New Zealand than in China.

Further Information

227. As indicated in the questionnaire response from Zong Cheng, the supplier of electricity is the SGCC. According to its website¹⁹ SGCC was founded on 29 December 2002 as a pilot state-owned corporation by the State Council. As a backbone state-owned enterprise that may affect national energy safety and economic lifelines, SGCC's core business is to build and operate power grids and provide secure and reliable power supply for the development of the society. SGCC has registered capital of RMB 200 billion yuan and services an area covering 26 provinces, autonomous regions and municipalities directly under the jurisdiction of the Central Government, which equals to 88 per cent of the national territory. Its president is the legal corporate representative of SGCC, which owns and manages five regional power grid companies and 24 provincial electric power companies, including Jiangsu Electric Power Company.
228. Electricity prices are controlled by the NDRC, which undertakes functions and responsibilities relating to national strategic planning for economic and social development across the Chinese economy. A variety of sources suggest that while the NDRC has sought to implement pricing policies on the basis outlined in the GOC questionnaire response, attempts to raise power prices have met with resistance from provincial and local officials who maintain an interest in providing reduced utility rates to industries operating within their localities.
229. The Final Report of the Australian investigation into the subsidisation of steel reinforcing bar (rebar) from China (REP 322), noted that in relation to rebar, the investigation found that the alleged subsidy programme by which electricity was provided by the GOC at less than adequate remuneration, was not countervailable. This finding was challenged by the Australian industry, but the Australian ADC noted that it had compared electricity tariff data for Jiangsu and Shandong provinces with the information provided by cooperative exporters, and had established that each exporter was subject to the tariff applicable to large industry. While the electricity tariff data indicated that certain industries were subject to preferential pricing, including the agricultural sector, it did not indicate that the rebar and rod in coil industries were subject to specific or preferential electricity tariff rates.
230. The submission of 6 April 2017 from NZ Steel cites findings by the European Commission in the OCS investigation which established that “differential electricity rates applicable for certain sectors and/or at provincial and local level are set in accordance with certain factors, including notably the pursuit of the industrial policy goals set by the central and local governments in their 5-year plans and in sectoral plans.”

¹⁹ <http://www.sgcc.com.cn/ywlm/gsgk-e/gsgk-e/gsgk-e1.shtml>: accessed on 27 March 2017.

4.4.6 Import tariff exemptions

NZ Steel Application

231. NZ Steel's application covered the exemptions provided to FIEs from VAT and tariffs (import duties) on imported equipment used in their production. VAT exemptions were discontinued in 2009 but import duty exemptions can still be received.
232. The US DOC treated any tax exemption as a non-recurring benefit, and used 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 per cent.
233. Because the VAT exemption was discontinued in 2009, MBIE has excluded that element of the claim from its consideration for the purposes of initiation.

GOC Questionnaire Response

234. Because no Chinese exporter or producer cooperated in the investigation the GOC did not know if any of the alleged programmes applied to the listed producers or exporters.

Zong Cheng Questionnaire Response

235. Zong Cheng advised that this programme was not applicable as it did not import inputs, technologies, machinery or equipment during the investigation period.

4.4.7 Export buyer's credits

NZ Steel Application

236. NZ Steel's application noted that this programme provides for state-owned banks, such as the Export-Import Bank of China, to make loans at preferential rates for the purchase by foreign buyers of exported goods from China. NZ Steel claimed that 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 per cent.

GOC Questionnaire Response

237. Because no Chinese exporter or producer cooperated in the investigation the GOC did not know if any of the alleged programmes applied to the listed producers or exporters.

Zong Cheng Questionnaire Response

238. Zong Cheng advised that it did not receive any benefits under this programme as it had no trade using export buyer's credits and had no loans with state-owned banks.

Exporters and Importers

239. Most New Zealand importers operate through trading companies located outside China, with two exceptions: Steel Co Ltd purchases through Yieh Corp, Shanghai, and neither provided a questionnaire response; and Roll Formers NZ Ltd purchased through Vast Link International Co Ltd, with Roll Formers providing a partial questionnaire response.

240. Only Stemcor, CMC and Marubeni provided responses to the Exporter's Questionnaire, in which they indicated, generally, that they received no benefits from any of the identified programmes.

Further Information

241. According to its website, the Export Import Bank of China provides export buyer's credit to foreign companies for their imports of Chinese product, technology and service. The loans are provided both in Chinese yuan and in foreign currencies. The loans are provided to foreign financial institutions, the finance ministry of the import country, institutions authorized by the government of the import country, and importers, foreign companies and ship owners that the Bank deems qualified.²⁰
242. The US DOC investigation into corrosion-resistant steel from China noted in its Issues and Decisions Memorandum for the Final Determination that the Export Import Bank of China, in its questionnaire response and in verification, advised that it provides the principal of the buyer's credit programme directly to Chinese producers, while foreign buyers repay the interest to the Bank. However, the US DOC claimed that the Bank did not allow access to documentation relating to loans so it could not verify non-use, and therefore used adverse facts available in its consideration of this programme. Based on its procedures, the US DOC based its assessed rate on the highest rate calculated for a similar programme in another CVD proceeding involving China (*Off-the-Road Tires from China CVD Review, 2010*).
243. The Australian Investigation 193 does not appear to have addressed this programme, which does not appear to have been raised by the applicant in that case.

4.4.8 Reported grants

NZ Steel Application

244. 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 0.0 per cent.

GOC Questionnaire Response

245. Because no Chinese exporter or producer cooperated in the investigation the GOC did not know if any of the alleged programmes applied to the listed producers or exporters.

Zong Cheng Questionnaire Response

246. Zong Cheng advised that during the investigation period it received a grant from Jiangyin City relating to "Energy Saving Special Funds" for any industry or company that demonstrated that it saved energy and was environmentally friendly, for example by

²⁰ http://english.eximbank.gov.cn/tm/en-TCN/index_672.html, accessed on 27 March 2017.

reducing carbon emissions, recycling and reuse. The grant was a one-off lump sum payment provided by the Jiangyin Municipal Commission of Economy and Informatization.

247. Zong Cheng provided information on the total value of sales in FY2016 as RMB [REDACTED]. The grant received was for RMB [REDACTED]. The grant was included as “Non-operating income” in the company’s accounts. Zong Cheng also claimed that a fee of RMB [REDACTED] was paid to a consulting company for assistance in applying for the grant.

Other Manufacturers

248. Other manufacturers did not provide questionnaire responses, and the GOC response did not provide any information on the question of grants by local or provincial governments. MBIE’s assessment of the existence and extent of any subsidy and consequent benefits provided to manufacturers of galvanised steel coil exported to New Zealand is based on the best information available.

Further Information

249. The Australian Investigation 193 identified 18 grant programmes out of the total of 36 programmes that it considered to be countervailable subsidies. With regard to these 18 programmes, the Australian authorities concluded that none of the cooperating manufacturers had received financial contributions under these programmes during the investigation period, and applied a zero subsidy rate accordingly. The cooperating manufacturers included Ansteel, YPC and Zong Cheng. Because non-cooperating manufacturers and the GOC had not provided any information on these programmes the Australian authorities considered that it was likely that some non-cooperating manufacturers were eligible for these programmes in their respective provinces.
250. The Australian authorities identified a further five grant programmes that it considered to be countervailable. In each case the Australian authorities concluded that zero subsidy rates should be applied to cooperating exporters.

4.5 MBIE Consideration

251. MBIE’s consideration of the existence of subsidisation of exports of galvanised steel coil from China addresses the issue of whether there is a financial contribution by a government or any public body that provides a benefit to the recipient and that is specific to an enterprise or industry, or a group of enterprises or industries. If a subsidy programme meets these criteria, MBIE will examine the amount of the subsidy in terms of the benefit to the recipient.
252. With regard to reliance on the best information available, MBIE notes the view of the WTO Appellate Body that the process of reasoning and evaluation of information available would involve a degree of comparison, and has sought to undertake such a comparison on a basis of common sense and fairness.

4.5.1 MBIE's Analysis of Information Available

Policy loans to the corrosion-resistant steel industry

253. A finding of subsidisation in relation to policy loans would require that evidence is available to confirm that a loan was provided, that the loan provider was a government or other public body, and that the difference between the rate paid on the government loan and the amount paid on a comparable commercial loan conferred a benefit on the purchaser, and that the rates paid were specific to an enterprise or industry.
254. As outlined on its website²¹, with the improvement of the socialist market economic system, the People's Bank of China, as a central bank, will play an even more important role in China's macroeconomic management. The amended Law of the People's Republic of China on the People's Bank of China, adopted in December 2003, provides that the Bank performs a range of major functions which on the face of it indicate that the Bank should be treated as a public body, since it has a state-mandated role in setting and implementing policies and regulations relating to the financial sector, including the establishment and modification of benchmark interest rates. However, there is no evidence that the People's Bank itself has provided concessional loans to producers of galvanised steel coil exported to New Zealand, or has directed any other lending institution to do so.
255. The website²² of the Export-Import Bank of China notes that it is a state bank solely owned by the Chinese government and under the direct leadership of the State Council. The Bank's main mandates are to facilitate the export and import of Chinese mechanical and electronic products, complete sets of equipment and new- and high-tech products, assist Chinese companies with comparative advantages in their offshore project contracting and outbound investment, and promote international economic cooperation and trade. The Bank's business scope includes government concessional loans to support other developing countries with concessional funding. This does not suggest that the Export-Import Bank of China has any role in providing loans relating to the production of galvanised steel coil which is exported to New Zealand.
256. There is a range of other commercial banks in China which have varying degrees of government ownership, but are subject to the rules and disciplines set by the government. These rules and guidelines include the deregulation of the sector overseen by the People's Bank of China, and the compliance requirements of listed company rules in China and Hong Kong, including the supervision of securities regulatory authorities.
257. The evidence from the cooperating manufacturer, Zong Cheng, is that it did not obtain loans from Chinese banks, but rather from Taiwanese banks which offered lower interest rates. While it is likely that this position is affected by the company's Taiwanese ownership, it does tend to confirm that interest rates offered by Chinese banks may not be concessional.

²¹ <http://www.pbc.gov.cn/english/130712/index.html>, accessed on 27 March 2017

²² <http://english.eximbank.gov.cn/en/> accessed on 3 April 2017.

258. The information provided in the application refers to government policies identifying the corrosion-resistant steel industry as being “encouraged” and therefore eligible for certain benefits from the central government as well as local and provincial authorities, including financing. This information was based on government instruments from 2005 and 2011.
259. Findings by the Australian authorities, the European Commission and the US DOC indicate the likelihood of subsidies, but in the absence of information from the GOC relied on best information available to determine the existence and extent of any subsidisation.
260. On the basis of the best information available to this point in the investigation, MBIE provisionally concludes that there is insufficient evidence to confirm that there is a countervailable subsidy in regard to “policy loans”. The basis for this view is that there is doubt that Chinese banks, while partially or totally state-owned, would meet the criteria for being considered “public bodies”, while the cooperating manufacturer has not received any loans and in any event has provided information in support of its claim that loan rates from Chinese banks exceed those from Taiwanese banks.

Provision of land use rights for less than adequate remuneration

261. A finding of subsidisation in relation to the provision of land-use rights would require that evidence is available to confirm that the government provided land-use rights to a producer of galvanised steel coil for less than adequate remuneration, when determined in relation to prevailing market conditions for land-use rights in China, and that the prices paid were specific to an enterprise or industry.
262. The application states that all land in China is owned by the State and land-use rights are transferred to companies for little or no cost, but provides no further evidence other than reference to the US DOC findings. US DOC findings appear to be based on similar assumptions arising from a lack of an expected response to a questionnaire by the GOC.
263. The information provided by the GOC makes it clear that there is no legislative basis for concluding that the provision of land-use rights at less than adequate remuneration is a national or provincial programme. Charges for land-use rights are established on a commercial basis, based on a broad categorisation of users. This indicates that the legal requirement does not support a finding of a specific subsidy.
264. The questionnaire response from Zong Cheng provides evidence that a price is paid for land-use rights and that it is based on market rates
265. A previous Australian investigation concluded that a programme for land use deductions for FIEs was not a countervailable subsidy.
266. On the basis of the best information available to this point in the investigation, MBIE provisionally concludes that there is no countervailable subsidy in respect to government provision of land-use rights.

Provision of input materials at less than adequate remuneration

267. A finding of subsidisation in relation to the price of inputs would require that evidence is available to confirm that a producer purchased inputs, that the input provider was a government or other public body, that the prices paid were for less than adequate

remuneration and conferred a benefit on the purchaser, and that the prices paid were specific to an enterprise or industry.

268. The information available confirms that Zong Cheng purchases at least hot rolled coil, and that Angang, Baosteel and Shougang are integrated steel producers, so do not purchase inputs from other suppliers.
269. MBIE is satisfied that the information available indicates that while suppliers of input materials are, in the main, state-owned enterprises, they are not “public bodies” in the context of Article 1.1(a) of the Subsidies Agreement. This view reflects, in particular, the arguments of the ADRP, which reviewed the position in light of WTO jurisprudence to date (see section 4.3 above). The ADRP noted that compliance with government policy does not of itself evidence that an entity possesses, exercises or is vested with government authority, which was the overriding test established by the WTO Appellate Body. The ADRP also noted that SASAC had certain obligations with respect to the State economy, but there was no evidence that SASAC had delegated its authority to SIEs to control participants in the iron and steel industry, and the ADRP was unable to agree with the conclusion that hot-rolled coil producing SIEs possessed or had been vested with governmental authority. The ADRP noted that the evidence relied on by the Australian authorities did demonstrate that the GOC regulated the iron and steel industry and that there was a degree of control by the GOC over participants in the industry, but the material did not show that such control amounted to meaningful control in the sense intended by the Appellate Body, and did not show that SIEs in the iron and steel industry were exercising government authority. For similar reasons, MBIE is not persuaded by the arguments made by NZ Steel in its submission of 6 April 2017 citing the findings by authorities in Canada and the EU, that steel SOEs should be treated as public bodies.
270. The information provided by the GOC confirms this view, and in particular, emphasises that input producers in China are independent business entities operating on a commercial basis, in accordance with the Company Law of the People’s Republic of China.
271. The information provided by Zong Cheng also confirms that prices paid for inputs are based on commercial considerations, and are not subject to any central direction or planning.
272. It has been assumed that the information relating to hot-rolled coil is also applicable to cold-rolled coil and zinc.
273. On the basis of the best information available at this point in the investigation, it is provisionally concluded that providers of hot-rolled coil, cold-rolled coil and zinc as inputs into the production of galvanised steel coil, are not “public bodies” in the sense required by Article 1.1(a)(1) of the Subsidies Agreement, as interpreted by the Appellate Body, and there is therefore no programme which provides for inputs of hot-rolled coil, cold-rolled coil or zinc, supplied by a public body, to be priced at less than adequate remuneration.

Provision of electricity at less than adequate remuneration

274. A finding of subsidisation in relation to the price of electricity would require that evidence is available to confirm that a producer purchased electricity, that the electricity provider was a government or other public body, that the prices paid were for less than adequate

remuneration and conferred a benefit on the purchaser, and that the prices paid were specific to an enterprise or industry.

275. The cooperating manufacturer has provided clear evidence that it uses electricity in the production of galvanised steel coil.
276. The entity responsible for prices charged to particular users in a particular location is the provincial electric power company owned by the SGCC, which is a state-owned entity, and prices are controlled by the NDRC, another government body.
277. The Australian authorities, in an investigation into another steel product, concluded that the rebar and rod in coil industries were not subject to specific or preferential electricity tariff rates. This confirms the position stated by the GOC and the cooperating manufacturer.
278. On the basis of the best information available to this point in the investigation, MBIE provisionally concludes that there is no countervailable subsidy arising from the provision of electricity by a public body on the basis of preferential electricity tariff rates.

Import tariff exemptions

279. A finding of subsidisation in relation to import tariff exemptions provided to FIEs would require that evidence is available to confirm that there was government revenue otherwise due that is foregone or not collected and that a benefit is conferred on the purchaser, and that the programme was specific to any such enterprise or industry.
280. Zong Cheng is the only foreign-invested manufacturer of galvanised steel exporting to New Zealand in FY2016. In its response to the questionnaire, Zong Cheng indicated that it did not import inputs, technologies or machinery or equipment during the investigation period, so did not benefit from any programme.
281. On the basis of the best information available to this point in the investigation, MBIE provisionally concludes that there is no countervailable subsidy in respect to the provision of import tariff exemptions to foreign-invested manufacturers.

Export buyer's credits

282. A finding of subsidisation in relation to export buyer's credits would require that evidence is available to confirm that credits have been provided, that the provider of the credits was a government or other public body, and that the difference between the rate paid on the credits and the amount paid on a comparable commercial facility conferred a benefit on the purchaser, and that the rates paid were specific to an enterprise or industry.
283. The GOC questionnaire response provided no information on export buyer's credits because no Chinese exporters or producers were cooperating in the investigation.
284. The website of the Export-Import Bank of China notes that it provides export buyers' credit to foreign companies for their imports of Chinese product, technology and service, with loans provided both in Chinese yuan and in foreign currencies. Loans are provided to foreign financial institutions, the finance ministry of the import country, institutions

authorized by the government of the import country, and importers, foreign companies and ship owners that the Bank deems qualified.

285. The US DOC investigation into corrosion-resistant steel from China confirmed that the Export-Import Bank of China provides the principal of the buyer's credit programme directly to Chinese producers, while foreign buyers repay the interest to the Bank. The US DOC calculation of a countervailable subsidy was based on the use of adverse facts available because it was not able to verify the non-use of the programme by the cooperating exporter, and used a "similar" programme in another investigation to estimate the level of subsidy.
286. Questionnaire responses received from Stemcor, CMC and Marubeni indicated that they had not received any benefits from Chinese programmes. Questionnaire responses were not received from other exporters.
287. In the absence of questionnaire responses from all manufacturers and exporters it is difficult to assess the best information available on this alleged subsidy programme. Cooperating exporters and the one cooperating manufacturer indicate that no assistance has been received under this programme, while its non-inclusion in the equivalent Australian investigation strongly supports this finding. The US DOC finding is based on the failure of the Export-Import Bank of China to provide information to confirm a negative finding, and the use of a temporally-distant finding from an investigation into a product from a different sector. In these circumstances, MBIE is prepared to accept information provided in the questionnaire responses from the cooperating exporters, albeit incomplete, and the cooperating manufacturer, as the best information available.
288. On the basis of the best information available to this point in the investigation, MBIE provisionally concludes that there is no countervailable subsidy in respect to the provision of export buyer's credits.

Reported grants

289. A finding of subsidisation in relation to grants would require that evidence is available to confirm that a grant was received, that the grant provider was a government or other public body, that the grant conferred a benefit on the recipient, and that the grant was specific to an enterprise or industry.
290. Where grants are received from provincial and local governments they are a financial contribution by a government, and the level of benefit is equivalent to the level of the grant, less any fees or other costs as set out in section 7(3) of the Act. The level of benefit to be applied in relation to exports would depend on the way in which the recipient of the grant treats it in financial records.
291. Zong Cheng provided information on a grant it received from the provincial government. However, when the cost of applying for the grant is taken into account, there is no benefit. Accordingly, the provisional conclusion is that there is no evidence that Zong Cheng received a countervailable subsidy in respect of grants from provincial or local governments.

292. Information on non-cooperating manufacturers in the current investigation indicates that they are not located in the municipalities or provinces that provided the grant programmes identified in the Australian investigation. It appears that in some cases the programmes considered by the Australian authorities were administered by central government agencies, and may, therefore, be available to non-cooperating manufacturers.
293. At least two of the non-cooperating manufacturers appear to be located in Jiangsu Province, along with Zong Cheng, and may have benefitted from at least the same programme.
294. On the basis of the best information available to this point in the investigation, MBIE provisionally concludes that there may be a countervailable subsidy in respect to the provision of grants by the Jiangsu Provincial authorities, to the extent of 0.02 per cent (based on the assessed level of benefit available to the cooperating manufacturer before adjusting for application costs), and that similar grants may have benefitted manufacturers in other provinces.

4.5.2 Conclusions Relating To Subsidisation

295. On the basis of the considerations outlined above, and taking account of the best information available to this point in the investigation, MBIE provisionally concludes that the levels of subsidy that can be confirmed are as set out in the following table.

Programme number	Programme description	Programme type	Level of Subsidy
1	Policy loans to the corrosion-resistant steel industry.	Grants or loans	0.00%
2	The provision of land-use rights for less than adequate remuneration.	Goods or services	0.00%
3	The provision of hot-rolled steel at less than adequate remuneration.	Goods or services	0.00%
4	The provision of cold-rolled steel at less than adequate remuneration.	Goods or services	0.00%
5	The provision of zinc at less than adequate remuneration.	Goods or services	0.00%
6	The provision of electricity at less than adequate remuneration.	Goods or services	0.00%
7	Import tariff exemption for FIEs and certain domestic enterprises using imported equipment in encouraged industries.	Revenue foregone	0.00%
8	Export buyer's credits.	Grants or loans	0.00%
9	Reported grants.	Grants or loans	

Galvanised Steel Coil from China

	Zong Cheng		0.00%
	Other		0.02%
	Total		
	Zong Cheng		0.00%
	Other		0.02%

296. On the basis of the analysis undertaken by MBIE, taking into account the best information available at this point in the investigation, the provisional conclusion is that the aggregate level of subsidisation that can reasonably be identified is 0.02 per cent.

4.6 Further Proceedings

297. In the light of these provisional conclusions, and bearing in mind that further investigation may result in different findings on the level of subsidisation, a provisional analysis of injury attributable to subsidised imports of the subject goods has been undertaken in the next section of this report.

5. Injury – Provisional Analysis

298. The following provisional analysis of the level of injury attributable to subsidised imports of the subject goods has been undertaken on the basis that further consideration of subsidisation over the remaining period of investigation may lead to different conclusions regarding the level of subsidisation than those outlined in the preceding section of this report. Accordingly, this provisional analysis of injury is undertaken on the assumption that imports are subsidised to some extent.
299. The basis for considering material injury is set out in section 8(1) of the Act:
- In determining for the purposes of this Act whether or not any material injury to an industry has been or is being caused or is threatened or whether or not the establishment of an industry has been or is being materially retarded by means of the dumping or subsidisation of goods imported or intended to be imported into New Zealand from another country, the Secretary shall examine—*
- (a) the volume of imports of the dumped or subsidised goods; and*
 - (b) the effect of the dumped or subsidised goods on prices in New Zealand for like goods; and*
 - (c) the consequent impact of the dumped or subsidised goods on the relevant New Zealand industry.*
300. MBIE interprets this to mean that injury is to be considered in the context of the impact on the industry arising from the volume of the allegedly subsidised goods and their effect on prices. This is consistent with Article 15 of the Subsidies Agreement. The Act goes on to set out a number of factors and indices which the Secretary shall have regard to, although noting that this is without limitation as to the matters the Secretary may consider. These factors and indices include:
- The extent to which there has been or is likely to be a significant increase in the volume of subsidised goods, either in absolute terms or relative to production or consumption;
 - The extent to which the prices of subsidised goods represent significant price undercutting in relation to prices in New Zealand;
 - The extent to which the effect of the subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers or significantly to prevent price increases for those goods that otherwise would have occurred;
 - The economic impact of the subsidised goods on the industry, including actual or potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; factors affecting domestic prices; and actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.
301. In addition, the Secretary must have regard to factors other than subsidisation which may be injuring the industry, since in accordance with Article 15.5 of the Subsidies Agreement, it must be demonstrated that the subsidised imports are, through the effects of subsidies, causing material injury. The demonstration of a causal relationship between the subsidised imports and the injury to the domestic industry must be based on an examination of all

relevant evidence before the authorities, who must examine any known factors other than the subsidised imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the subsidised imports. Factors which may be relevant in this respect include, *inter alia*, the volumes and prices of non-subsidised imports of the product in question, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

- 302. The Secretary is also required to have regard to the nature and extent of importations of subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importation.
- 303. Material injury is normally assessed by comparing data for an injury factor against the data in a period unaffected by subsidisation.

5.1 Import Volumes

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

Table 5.1: Import Volumes – Customs Data, adjusted

	FY2012	FY2013	FY2014	FY2015	FY2016
Tonnes					
China					
Taiwan					
Japan					
Korea					
Other					
Total	2565	3956	3840	2077	2448
%					
China					
Taiwan					
Japan					
Korea					
Other					

- 306. These import statistics do not reflect all of those errors in classification that have become known through analysis of import documentation provided by exporters and importers. Nor do they reflect the outcome of a detailed like goods analysis to ascertain the extent to which domestic production is like the subject goods. It is likely that correction of

classification errors will indicate that higher volumes of imports entered under the relevant tariff item and statistical keys, but the like goods analysis may show that imports of like goods from China are lower than the volumes of all goods covered by the tariff description.

307. On the basis of the import data above and domestic sales information provided by NZ Steel, the following Table shows the evolution of sales.

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

	FY2012	FY2013	FY2014	FY2015	FY2016
Market (tonnes):					
Domestic sales					
China					
Other Imports					
NZ Market					
Shares of NZ market (%):					
China					
Other imports					
Domestic sales					
China as % of domestic sales					
Changes from previous year (tonnes):					
Domestic sales					
China					
Other imports					
NZ market					

308. Imports of the subject goods from China have increased, but over the last two years they have shown a decline compared with FY2012, while other imports, particularly from Taiwan have increased. Sales volumes by NZ Steel have increased regularly over the period.
309. The questionnaire response from the only cooperating manufacturer indicated that it did not actively seek orders in export markets, but responded to orders from an intermediary which were based on local demand in New Zealand. Any future volumes of exports to New Zealand would depend on the receipt of orders.
310. Questionnaire responses from importers gave a range of expectations for import growth, from no change and no significant growth in imports, to growth that reflects market growth.
311. Given the need for further clarification of the actual volumes of subject goods being imported, it is not possible, at this point in the investigation, to reach a definite conclusion regarding the impact of volumes of subsidised imports. However, it is reasonable to conclude, on the basis of the information available to this point in the investigation, that there has not been a significant increase in the volume of imports of the subject goods in either absolute terms or relative to production or consumption in the domestic market.
312. It is noted that NZ Steel's policy is to maintain sales levels through price competition, so it is not unexpected that sales of domestic production have not declined or that import volumes have not increased significantly.

5.2 Price Effects

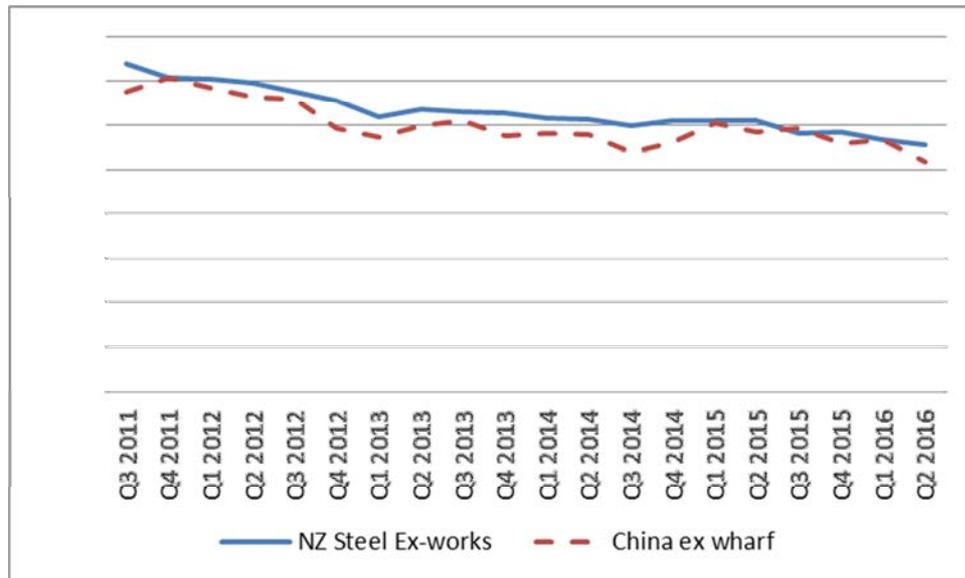
313. Section 8(1) of the Act requires that in determining whether or not material injury is being caused to an industry, the Secretary shall examine the effect of the subsidised goods on prices in New Zealand for like goods. Sections 8(2)(b) and (c) include among the matters the Secretary shall have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

5.2.1 Price Undercutting

316. Section 8(2)(b) of the Act provides that the Secretary shall have regard to the extent to which the prices of the subsidised goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers. It should be noted that the determination that price undercutting exists is not by itself a determination of the extent of injury, 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 in terms of the factors and indices set out in section 8(2)(d) of the Act.
317. In considering price undercutting, MBIE will normally seek to compare prices at the ex-factory and importer's into-store (FIS) levels, to ensure that differences in distribution costs and importer margins do not confuse the impact of subsidisation.
318. Figure 1 uses adjusted Customs data plus freight and insurance, and provision for destination costs as provided by NZ Steel, to derive average quarterly Chinese ex-wharf prices to arrive at the comparison with NZ Steel's average quarterly ex-works prices.

Detailed information from importers is being worked through to establish the basis for prices at the importer’s store level.

Figure 1: Price Undercutting – NZD/tonne



319. On this basis, price undercutting occurred in all but one of the quarters over this period, with the levels of undercutting ranging up to ten per cent in two quarters in FY2013 and FY2015. However, further investigation will be required on the basis of detailed invoice information available to MBIE, including information on the price basis for imports and the levels of actual costs incurred to the ex-wharf level for imports.
320. MBIE provisionally concludes that there is evidence of price undercutting by imports from China, but it is not possible to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent price undercutting during the remaining period of the investigation. This conclusion is subject to the need to take into account the outcome of further investigation, and is based on information available to this point in the investigation.

5.2.2 Price Depression

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

Table 5.3: Price Depression – NZD/tonne

	Nett selling price	Quarterly Change NZD	As % of Q3 2011
Q3 2011			100%
Q4 2011			95%
Q1 2012			95%
Q2 2012			94%
Q3 2012			91%
Q4 2012			88%
Q1 2013			84%
Q2 2013			86%
Q3 2013			84%
Q4 2013			84%
Q1 2014			82%
Q2 2014			82%
Q3 2014			80%
Q4 2014			81%
Q1 2015			81%
Q2 2015			82%
Q3 2015			77%
Q4 2015			78%
Q1 2016			76%
Q2 2016			74%

322. Table 5.3 above, which includes information updated from that available in the Initiation Report, shows information on price depression available to this point in the investigation. It shows that NZ Steel's average selling price decreased over the period. By Q2 2016, NZ Steel's average selling price had dropped to 74 per cent of its Q3 2011 average selling price, and while there were some quarters when prices recovered slightly, the overall trend is downwards.
323. MBIE provisionally concludes that there is evidence of price depression. It is not possible at this point to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent price depression during the remaining period of the investigation. This provisional conclusion is based on information available to this point in the investigation.

5.2.3 Price Suppression

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

**Table 5.4: Price Suppression
(NZD 000)**

	Total Sales \$000	Fixed Costs (including S&A)	Fixed Costs as % of Sales	Variable Costs	Variable Costs as % of Sales
Q3 2011					
Q4 2011					
Q1 2012					
Q2 2012					
Q3 2012					
Q4 2012					
Q1 2013					
Q2 2013					
Q3 2013					
Q4 2013					
Q1 2014					
Q2 2014					
Q3 2014					
Q4 2014					
Q1 2015					
Q2 2015					
Q3 2015					
Q4 2015					
Q1 2016					
Q2 2016					

326. Table 5.4 above, which includes information updated from the Initiation Report, shows information on price suppression available to this point in the investigation. It 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 [REDACTED] per cent higher for fixed costs and [REDACTED] per cent higher for variable costs, giving a total of [REDACTED] per cent, which is regarded as significant.
327. MBIE provisionally concludes that there is evidence of price suppression. However it is not possible at this point to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent price suppression during the remaining period of the investigation. This provisional conclusion is based on information available to this point in the investigation.

5.2.4 Conclusion on Price Effects

328. Based on information available to this point in the investigation, MBIE provisionally concludes that there is evidence of price undercutting by imports from China, and there is also evidence that the domestic industry has experienced price depression and price suppression. However, it is not possible at this point to conclude that the imposition of

provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent the price effects noted above during the remaining period of the investigation.

5.3 Economic Impact

329. Section 8(1) of the Act requires the Chief Executive 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 Chief Executive 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 Chief Executive shall have regard to.

5.3.1 Output and Sales

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

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

**Table 5.5: Sales volume and sales revenue
(as % of previous year)**

	FY2012	FY2013	FY2014	FY2015	FY2016
Sales Volume (tonnes)					
Annual change (%)		110%	104%	105%	112%
Sales revenue (NZD 000)					
Annual change (%)		96%	103%	102%	105%
Revenue per unit (NZD/tonne)					
Annual change (%)		88%	99%	97%	94%

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

333. The information in Table 5.5 shows that NZ Steel's annual sales volumes and revenue have generally increased over the period, although revenue per unit decreased compared with FY2012. This confirms the company's approach of matching prices to maintain volume of sales.

334. MBIE provisionally concludes that there has not been a decline in output or sales by the domestic industry. For the purposes of a provisional conclusion, and based on the subsidy levels provisionally established, it is difficult to attribute any reduction in output and sales revenue to imports of subsidised goods from China.

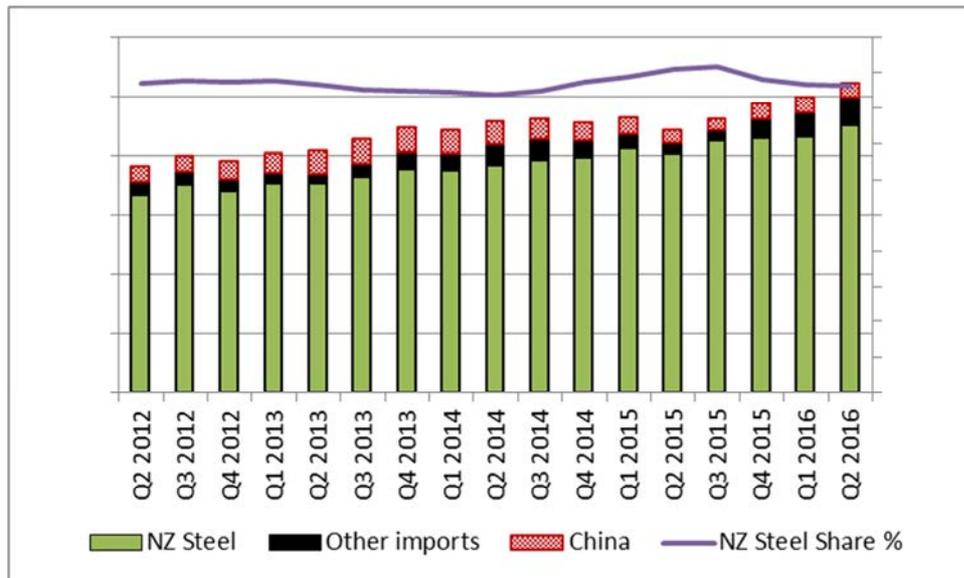
5.3.2 Market Share

335. The analysis of market share must take account of changes in the growth of the market as a whole. A decline in the share of the market held by the domestic industry in a situation

where the market as a whole is growing will not necessarily indicate that injury is being caused to the domestic industry, particularly if the domestic industry’s sales are also growing. There is no “entitlement” to a particular market share.

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

Figure 2: Market shares
Running annual totals by quarter - %



337. The information shows that NZ Steel’s market share declined from 2012 to 2014, but has risen since then to a level only slightly below that of 2012. China’s market share grew slightly in 2013 and 2014 but has since fallen to below 2012 levels in the latest period. Imports from other countries have fluctuated over the period but over recent periods have shown large increases compared with 2012.

338. The information available confirms that NZ Steel seeks to maintain market share, which has not shown any real decline. For the purposes of a provisional conclusion, and based on the subsidy levels provisionally established, it is difficult to attribute any reduction in market share to imports of subsidised goods from China.

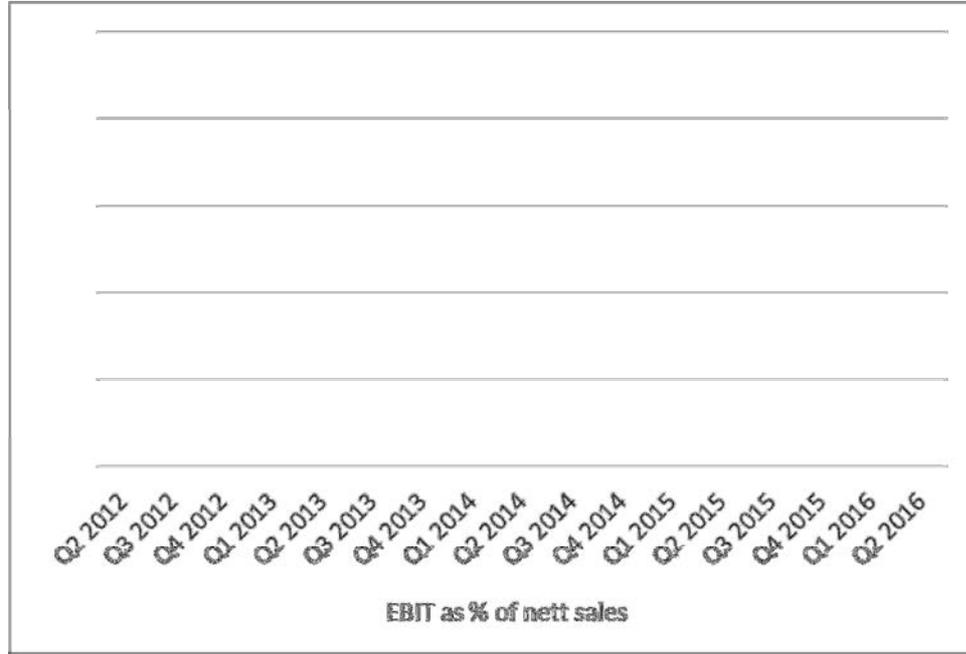
5.3.3 Profits

339. Changes in net profit reflect changes in prices, sales volumes or costs. Dumped imports can impact on any or all of these. Normally, the extent of a decline in profit will be measured against the level achieved in the period immediately preceding the commencement of dumping.

340. 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.

341. The following graph shows NZ Steel’s earnings before interest and taxation (EBIT) figures as rolling twelve month totals on a quarterly basis from Q4-2012 to Q2-2016. EBIT is the gross profit on galvanised steel coil less distribution costs.

**Figure 3: EBIT as a % of nett sales
Rolling twelve month totals**



342. Figures for individual quarters show that in the final two quarters of FY2016, EBIT was █ per cent and █ per cent respectively.

343. All measures of EBIT show significant declines. These measures include the total amount, as a percentage of total sales, and on a per unit basis. On this basis, MBIE can conclude that there has been an actual decline in profits which correlates significantly with and can be attributed to price undercutting, price depression and price suppression. However, it is not possible at this point to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent the price effects noted above during the remaining period of the investigation, and any consequent impact on profits.

5.3.4 Productivity

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

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

5.3.5 Return on Investments

346. A decline in return on invested capital (ROIC) will result from a decline in returns with or without a relative increase in the investment factor being used. Movements in the return on investments affect the ability of the industry to retain and attract investment.
347. During the verification visit to NZ Steel, the company provided an updated table relating to the ROIC on galvanised coil (█ per cent of MCL throughput) as evidence of the decline in ROIC. This evidence, which was verified, showed that estimated ROIC for galvanised coil declined from █ per cent in 2012 to █ per cent in 2015, but if 2012 EBIT levels had been maintained the ROIC in 2015 would have increased to █ per cent.
348. The evidence shows that NZ Steel has suffered an economic impact as a diminished return on investments proportional with the price effects and the impact on EBIT margin. However, it is not possible at this point to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent the impact on ROIC arising from price effects and impact on EBIT during the remaining period of the investigation.

5.3.6 Utilisation of Production Capacity

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

5.3.7 Factors Affecting Domestic Prices

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

5.3.8 Other Adverse Effects

Cash Flow

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

Inventories

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

Employment and Wages

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

Growth

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

Ability to Raise Capital and Investments

356. In its application, NZ Steel claimed its parent company, Bluescope Australia, had intentions to expand NZ Steel's product range of metal coating, but this project was cancelled due to lower profitability. In a supplementary submission to its application, NZ Steel provided evidence that the proposed capital investment in NZ Steel's MCL was indefinitely placed on hold in mid-2015 and effectively cancelled soon afterwards. There were several commercial reasons which contributed towards this decision to cancel, one of which was that the MCL was not as profitable as it had been previously. At the verification visit, NZ Steel did not provide further evidence on this topic. NZ Steel observed that any un-remedied presence in New Zealand of injurious subsidised galvanized steel coil adversely affects any requests the company might make to its owner for capital.

5.3.9 Conclusion on Economic Impact

357. The conclusions reached with regard to the economic impact of subsidised imports on output, sales and market share is that any injury arises from price effects and will need to be considered in that context.
358. The conclusions reached with regard to the economic impact of subsidised imports on profits, return on investments, factors affecting domestic prices, cash flow, growth and ability to raise capital, are that it is not possible at this point to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent the economic impact relating to these injury factors during the remaining period of the investigation.

359. With regard to productivity, utilisation of production capacity, inventories, and employment and wages, it is noted that NZ Steel does not consider them to be useful material injury factors in the particular circumstances of this case.

360. For the purposes of a provisional conclusion, however, and based on the subsidy levels provisionally established, it is difficult to attribute any economic impact to imports of subsidised goods from China.

5.4 Provisional Conclusions Relating To Injury

5.4.1 Import Volumes

361. On the basis of the information available to this point in the investigation, the provisional conclusion is that there has not been a significant increase in the volume of imports of the subject goods in either absolute terms or relative to production or consumption in the domestic market.

5.4.2 Price Effects

362. Based on information available to this point in the investigation, a provisional conclusion is that there is evidence of price undercutting by imports from China, and there is also evidence that the domestic industry has experienced price depression and price suppression. However, it is not possible at this point to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent the price effects noted above during the remaining period of the investigation.

5.4.3 Economic Impact

363. Based on the information available to this point in the investigation, MBIE provisionally concludes that the domestic industry has experienced an economic impact on profits and related injury factors as a result of the impact of price effects. However, it is not possible at this point to conclude that the imposition of provisional measures on imports from China, based on the subsidy levels provisionally established, would prevent this economic impact.

5.4.4 Conclusions

364. At this point in the investigation, and based on the levels of subsidisation provisionally established, the provisional conclusion is that material injury to an industry is not being caused by goods that are subsidised.

6. Causal Link – Provisional Analysis

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

366. Article 15.5 of the Subsidies Agreement provides:

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

6.1 Injury Attributable to Imports

367. The assessment of the injury factors in section 5 above includes discussion of the causal relationships of subsidised imports on volume and price effects and the consequent impact on the domestic industry, based on an assessment of the information available to this point in the investigation, and in light of the requirements for the imposition of provisional measures.
368. The provisional conclusions reached with regard to price effects is that there is evidence of price undercutting by imports from China, and there is also evidence that the domestic industry has experienced price depression and price suppression. MBIE 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. The price effects and the decline in profits have also affected the return on capital, cash flow and the ability to raise capital. However, based on the subsidy levels provisionally established, it is difficult, at this stage of the investigation, to attribute any economic impact to the subsidisation of imports of galvanised steel coil from China.

6.2 Other Causes of Injury

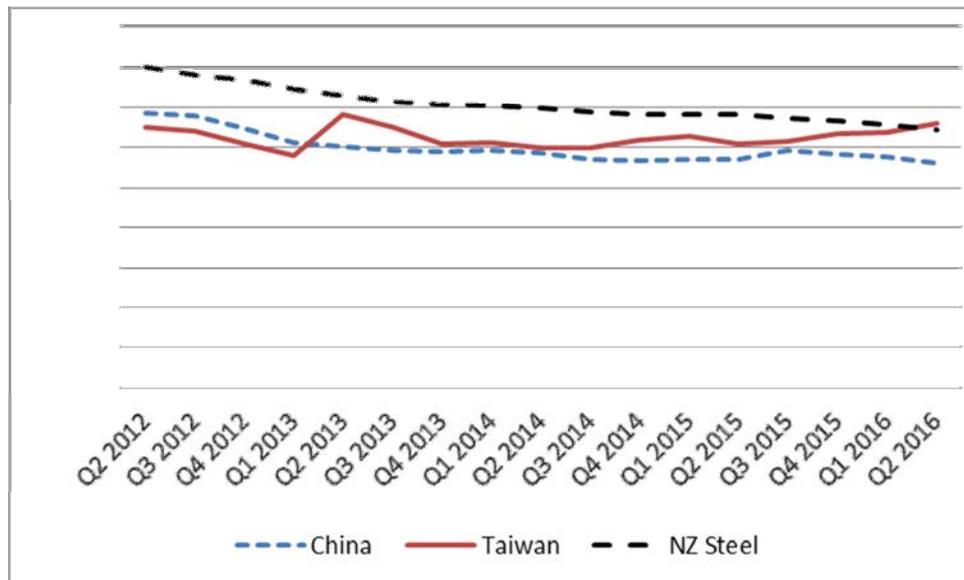
6.2.1 Non-subsidised Imports

369. Imports that are not subsidised also have the potential to cause injury to the New Zealand industry.

370. As noted in the Initiation Report, there was a significant decrease in the volume of imports subject to customs duties in 2014 and 2015 compared with the earlier part of the period reviewed. This was a result of concessionary duty free entry being provided for building materials in 2014, and the removal of duties from several countries as free trade agreements entered into force. 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.

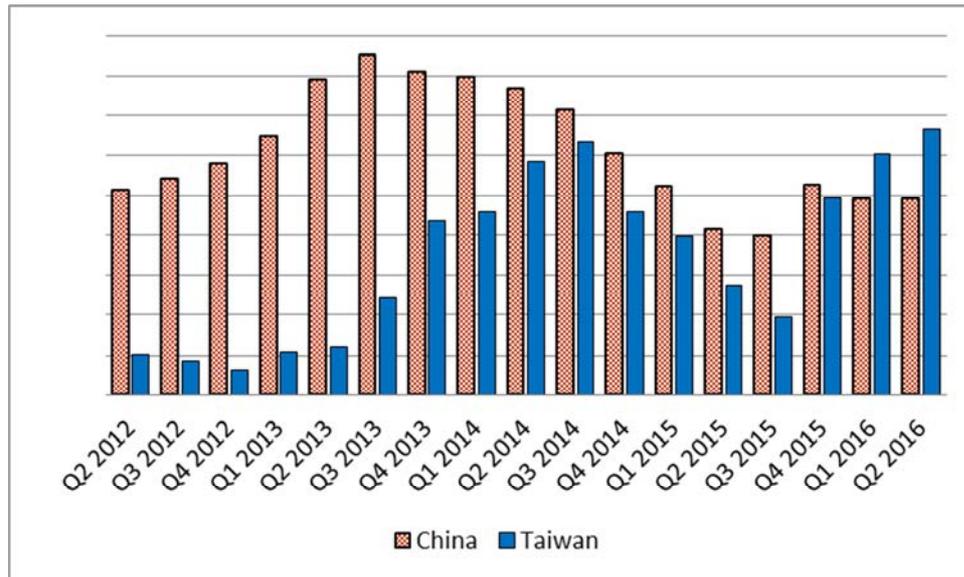
371. The following graph provides a provisional price comparison, with rolling twelve month average prices for imports from China and Taiwan (the other major supplier of imports), based on NZD VFD values adjusted by adding provision for freight and landing costs to provide an ex-wharf comparison with NZ Steel’s nett selling price.

Figure 4: Price Comparisons
Rolling twelve month averages - NZD/tonne



372. The graph below shows the volume of imports from China and Taiwan on the same rolling twelve month basis.

**Figure 5: Imports: Rolling twelve month totals
Tonnes**



373. The information available indicates that for most of the period Q4-2012 to Q2-2016, prices of the subject goods from Taiwan have tended to be above prices from China, and that imports from Taiwan have increased over the last twelve months in the period, with prices above those of NZ Steel. The conclusion is that imports of non-subsidised goods are not likely to be a cause of injury to the domestic industry through price effects.
374. Responses to Importer's Questionnaires have noted that prices for Chinese steel are not dissimilar to those from other countries around the world

6.2.2 Contraction in demand or changes in the patterns of consumption

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

6.2.3 Restrictive Trade Practices and Competition

378. Restrictive trade practices of overseas or New Zealand producers, such as price ceilings, other statutory measures, or exclusive dealer arrangements, can negatively affect the financial position of New Zealand manufacturers when they are not the beneficiaries of the restrictions. Competition between overseas and New Zealand producers of galvanised steel coil can be a cause of material injury independent of any subsidisation. For example, the

existence of a price war or the constant threat of new competitors to the New Zealand market can cause a fiercely competitive environment where it is difficult for a New Zealand manufacturer to make a positive return.

379. Imports generally use the same distribution processes as domestic sales. Importers' Questionnaire responses suggested that because New Zealand is a small market, which is price sensitive and requires a high quality standard, there might be difficulties for a new importer to enter the market.
380. MBIE notes that there is only one domestic producer, but the availability of competition from imports mitigates the potential monopoly effect. MBIE is satisfied that there are no restrictive trade practices in the New Zealand market, and that a competitive market exists.

6.2.4 Developments in Technology

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

6.2.5 Export Performance and Productivity of New Zealand Producers

383. Export performance and productivity of the New Zealand industry can be a cause of injury if its export performance is at the expense of its domestic performance.
384. NZ Steel exports galvanised steel coil to Australia and the Pacific Islands. NZ Steel provided details of export sales, by quarter, for calendar years 2013-2015, in terms of volumes and value. These sales make up a significant proportion of total sales in this period (in FY2014 NZ Steel's export volume represented 10 per cent of total sales, by volume).
385. NZ Steel does not consider that it has been injured by its export performance or its productivity. NZ Steel has noted that it has conducted an extensive cost reduction programme over the last eighteen months and has taken tens of millions of dollars of costs out of its business, including substantial costs taken out of the MCL business unit.
386. MBIE concludes that the export performance and productivity of NZ Steel has not been an injury factor.

6.2.6 Imports by the Industry

387. The Ministry is required to assess the nature and extent of importation of subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.
388. NZ Steel has made no imports of the subject goods during the period investigated.

6.3 Provisional Conclusions on Other Causes of Injury

389. On the basis of the information available to this point in the investigation MBIE does not believe that it is attributing any injury caused by the factors discussed above to the subsidised imports.

7. Conclusions

390. MBIE concludes that on the basis of the provisional findings on the level of subsidisation and the consequent impact on the New Zealand industry, there is no basis for the imposition of provisional measures in order to prevent material injury being caused by subsidised imports during the remaining period of investigation.
391. Given this conclusion, MBIE will recommend to the Minister that she not determine that provisional measures should be imposed on galvanised steel coil from China for the remaining period of the investigation.