



**Australian Government**  
**Department of Industry, Science,  
Energy and Resources**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

**STATEMENT OF ESSENTIAL FACTS  
NO. 553**

**ALLEGED DUMPING OF  
PAINTED STEEL STRAPPING  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA  
AND THE SOCIALIST REPUBLIC OF VIETNAM**

**AND**

**ALLEGED SUBSIDISATION OF  
PAINTED STEEL STRAPPING  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**23 April 2021**

**SEF 553 Painted steel strapping – China and Vietnam**

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**ABBREVIATIONS**

\$	Australian dollars
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ADA	Anti-Dumping Agreement
ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901</i>
the applicant	Signode Packaging Group Australia Pty Ltd
CBSA	Canada Border Services Agency
CFR	cost and freight
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CRC	cold rolled coil
CTM	cost to make
CTMS	cost to make and sell
Dalian Steelforce	Dalian Steelforce Hi-Tech Co., Ltd
DS 529	WTO Panel Report <i>Australia – Anti-Dumping Measures on A4 Copy Paper</i>
EPR	Electronic Public Record, available at <a href="http://www.adcommission.gov.au">www.adcommission.gov.au</a>
FIS	free into store
FOB	free on board
GAAP	generally accepted accounting principles
GOC	Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
GOV	Government of Vietnam
the Guidelines	Guidelines on the Application of Forms of Dumping Duty November 2013
HRC	hot rolled coil
HSS	hollow structural sections
ICD	interim countervailing duty
IDD	interim dumping duty
INV 370	Investigation No. 370 into Galvanised Steel exported from India, Malaysia and Vietnam
INV 416	Investigation No. 416 into Steel rod in coils exported from Indonesia, Korea and Vietnam
ITA	International Trade Administration within the United States Department of Commerce (ITA)
Jiashilun	Qinhuangdao Jiashilun Packaging Materials Co., Ltd
Korea	the Republic of Korea

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Lingyun Steel	Lingyun Steel Strapping Limited
the Manual	Anti-Dumping Commission Dumping and Subsidy Manual
Material Injury Direction	Ministerial Direction on Material Injury 2012
the Minister	the Minister for Industry, Science and Technology
NIP	non-injurious price
NME	non-market economy
non-cooperative entities	See chapter 7.7 for definition
OCOT	ordinary course of trade
PAD	Preliminary Affirmative Determination
the PAD Direction	<i>Customs (Preliminary Affirmative Determinations) Direction 2015</i>
the Regulations	<i>Customs (International Obligations) Regulation 2015</i>
REQ	response to exporter questionnaire
RGQ	response to Government questionnaire
RHS	rectangular or square hollow sections
ROI	return on investment
SEF	Statement of Essential Facts
Sam Hwan	Sam Hwan Vina Co. Ltd
SCM Agreement	Agreement on Subsidies and Countervailing Measures
Signode Australia	Signode Packaging Group Australia Pty Ltd
SOEs	State-owned Enterprises
the subject countries	China and Vietnam
TRAV	Trade Remedies Authority of Vietnam
USP	unsuppressed selling price
Vietnam	the Socialist Republic of Vietnam
WTO	World Trade Organization

## 1 SUMMARY AND RECOMMENDATIONS

### 1.1 Preliminary findings

This statement of essential facts (SEF) No. 553 has been prepared in response to an application by Signode Packaging Group Australia Pty Ltd (Signode Australia) seeking the publication of a dumping duty notice in respect of painted steel strapping (the goods) exported to Australia from the People's Republic of China (China) and the Socialist Republic of Vietnam (Vietnam) (collectively, the subject countries) and a countervailing duty notice in respect of the goods from China.

Signode Australia, the sole member of the Australian industry manufacturing like goods, claims that it suffered material injury as a result of dumped and subsidised imports of the goods.

The Commissioner of the Anti-Dumping Commission (the Commissioner) has found that the goods exported by Chinese exporters, except for Qinhuangdao Jiashilun Packaging Materials Co., Ltd (Jiashilun) were exported at dumped and subsidised prices. Goods exported by Jiashilun during the investigation period were found not to have been dumped and were subsidised at negligible levels.

The Commissioner has also found that the goods exported by Vietnamese exporters, except for Sam Hwan Vina Co. Ltd (Sam Hwan) were exported at dumped prices. Goods exported by Sam Hwan during the investigation period were found to have been dumped at negligible levels.

The Commission has found that the dumped and subsidised exports from China caused material injury to the Australian industry.

The Commission did not find that the dumped exports from Vietnam caused material injury to the Australian industry.

Based on these preliminary findings and, subject to any further submissions received in response to this SEF, the Commissioner proposes to:

- recommend that the Minister for Industry, Science and Technology (the Minister) publish a dumping duty notice and a countervailing duty notice in respect of all exports of the goods from Chinese exporters, except for exports by Jiashilun;
- terminate this investigation, in so far as it relates to Jiashilun;
- recommend that the Minister not publish a dumping duty notice in respect of all exports of the goods from Vietnamese exporters; and
- terminate this investigation, in so far as it relates to Sam Hwan.

## **1.2 Authority to make decision**

Division 2 of Part XVB of the *Customs Act 1901*<sup>1</sup> (the Act) describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under section 269TB(1).

### **1.2.1 Application**

On 31 March 2020, Signode Australia lodged an application alleging that the Australian industry has suffered material injury caused by the goods exported to Australia from China at dumped and subsidised prices and Vietnam at dumped prices.

Having considered the application, the Commissioner decided not to reject the application and initiated Investigation No. 553 on 27 May 2020.

Consideration Report No. 553 (CON 553) and Anti-Dumping Notice (ADN) No. 2020/050 provide further details relating to the initiation of the investigation.<sup>2</sup>

### **1.2.2 Preliminary Affirmative Determination**

In accordance with section 269TD, the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice, or if satisfied that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation of the goods into Australia.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (PAD Direction) directs the Commissioner to publish a status report providing reasons why a PAD was not made.

On 27 July 2020, being 60 days after the initiation of the investigation, the Commissioner published a status report.<sup>3</sup>

As required by section 9 of the PAD Direction, if the Commissioner has published a status report in relation to an investigation, the Commissioner must reconsider whether or not to make a PAD at least once prior to the publication of the SEF.

The Commissioner has reconsidered whether to make a PAD, and decided to do so in conjunction with publishing this SEF. This has been discussed in chapter 13.

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<sup>1</sup> All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

<sup>2</sup> Electronic Public Record (EPR) No. 553, Items 2 and 3.

<sup>3</sup> EPR 553, Item 6.



### **1.2.3 Statement of Essential Facts**

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows under section 269ZHI(3)<sup>4</sup>, place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister in relation to the application.<sup>5</sup>

In formulating the SEF, the Commissioner must have regard to the application, and any submissions concerning publication of the notice that are received by the Commission within 37 days after the date of initiation of the investigation.<sup>6</sup> The Commissioner may also have regard to any other matters considered relevant.<sup>7</sup>

The SEF was originally due to be placed on the public record by 14 September 2020. However, the due date for the SEF and final report was extended.<sup>8</sup> The Commissioner is now required to place the SEF on the public record by 23 April 2021.

### **1.2.4 Report to the Minister**

The Commissioner's report in relation to this investigation was initially due to be provided to the Minister on, or before 29 October 2020. However, this due date was extended.<sup>9</sup> The report and recommendations must now be provided to the Minister on, or before, 15 June 2021,<sup>10</sup> unless the investigation is terminated earlier.

## **1.3 Findings and conclusions**

The Commissioner's preliminary findings and conclusions in this SEF are based on available information at this stage of the investigation. A summary is provided below and there is greater detail in the remainder of this report.

### **1.3.1 The goods and like goods and the Australian industry (chapters 3 and 4)**

The Commissioner considers that locally produced painted steel strapping are 'like' to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods, which comprises solely of Signode Australia.

### **1.3.2 The Australian market (chapter 5)**

The Australian market for the goods and like goods is supplied from local production and by imports from several countries, including the subject countries.

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<sup>4</sup> This power has been delegated to the Commissioner. See ADN No. 2017/10.

<sup>5</sup> Section 269TDAA(1).

<sup>6</sup> Section 269TDAA(2)(a).

<sup>7</sup> Section 269TDAA(2)(b).

<sup>8</sup> EPR 553, Items 7, 13 and 17.

<sup>9</sup> Ibid.

<sup>10</sup> Under section 269TEA.

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### 1.3.3 Dumping margins (chapter 6)

The Commission's assessment of dumping margins is set out in the table below.

Exporter	Dumping Margin (%)
Jiashilun	- 6.2
Uncooperative Chinese exporters	11.5
Sam Hwan	1.7
Uncooperative Vietnamese exporters	4.3

**Table 1 – Dumping Margins**

### 1.3.4 Subsidy margins (chapter 7)

The Commission's assessment of subsidy margins is set out in the table below.

Entity	Subsidy Margin (%)
Jiashilun	0.2
All other Chinese entities	42.6%

**Table 2 – Subsidy Margins**

### 1.3.5 Material injury caused by dumped goods (chapter 9)

In relation to the export of the goods by Chinese exporters whose goods were dumped or subsidised at levels which were not negligible, the Commissioner is preliminarily satisfied that the Australian industry has suffered material injury in the forms of:

- loss of sales volume;
- price suppression;
- loss of profit;
- reduced profitability;
- reduced revenue;
- a decline in capital investment;
- a decline in return on investment (ROI); and
- reduced capacity utilisation.

The Commissioner is not preliminarily satisfied that the Australian industry has suffered material injury in relation to the export of goods by Vietnamese exporters.

### 1.3.6 Whether dumping and subsidisation may continue (chapter 10)

The Commissioner considers that the export of the goods to Australia from Chinese exporters (except Jiashilun) may continue in the future at dumped and subsidised prices.

### 1.3.7 Non-injurious price (chapter 11)

The Commissioner is satisfied that there is a situation in the Chinese domestic market that renders domestic selling prices unsuitable for determining normal value under section 269TAC(1). Accordingly, the Commissioner considers that sections 8(5BAAA)(a) and 10(3DA)(c) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) apply,

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and as a result, proposes to recommend that the Minister is not required to consider the lesser duty rule for the purposes of sections 8(5BA) and 10(3D) of the Dumping Duty Act.

### **1.3.8 Proposed measures (chapter 12)**

The Commissioner proposes to recommend to the Minister that anti-dumping measures, using the *ad valorem* duty method, be imposed in the form of a dumping duty notice and a countervailing duty notice in respect of dumping and countervailing duty that may become payable by importers of the goods from China, except for imports of the goods from Jiashilun.

### **1.3.9 Preliminary Affirmative Determination (chapter 13)**

As part of this SEF, the Commissioner, after having regard to the application, the submissions received and other relevant information, has determined that it is appropriate to make PAD. Pursuant to section 269TD(1)(a), the Commissioner is satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods exported to Australia from China by all exporters, except for Jiashilun.

As a result, the Commissioner has made a PAD, pursuant to section 269TD. Securities will be taken in relation to interim countervailing duty (ICD) and interim dumping duty (IDD) that may become payable for imports of the goods that are entered for home consumption from 23 April 2021.

### **1.3.10 Termination and effect for certain exporters (chapter 14)**

Section 269TDA provides for when the Commissioner must terminate an investigation.

Subject to any submissions received in response to this SEF, the Commissioner proposes to terminate:

- the dumping and countervailing investigation in relation to Jiashilun, on the basis that the level of dumping and countervailable subsidisation received by Jiashilun was negligible in relation to the goods in accordance with sections 269TDA(1) and 269TDA(2); and
- Sam Hwan, on the basis that the level of dumping by Sam Hwan was negligible in relation to the goods, in accordance with section 269TDA(1).

As discussed in chapter 9, the Commissioner is not satisfied that Australian industry has suffered material injury as a result of the exports of the goods at dumped prices from uncooperative exporters from Vietnam. Accordingly, the Commissioner proposes not to recommend measures in respect of exports from Vietnam, which will not be listed in a dumping duty notice for the goods.

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## **2 BACKGROUND**

### **2.1 Initiation**

On 31 March 2020, Signode Australia lodged an application under section 269TB(1) seeking the publication of a dumping duty notice in respect of the goods exported to Australia from China and Vietnam and a countervailing duty notice in respect of the goods from China.

Having considered the application, the Commissioner decided not to reject the application and initiated Investigation 553 on 27 May 2020. Public notification of the initiation was also made on 27 May 2020. CON 553 and ADN No. 2020/050 provide further details relating to the initiation of the investigation.<sup>11</sup>

In respect of this investigation:

- the investigation period for the purpose of assessing dumping and subsidisation is 1 April 2019 to 31 March 2020; and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped and subsidised goods is from 1 April 2016.

### **2.2 Previous cases**

There have been no previous cases in relation to painted steel strapping exported from China or Vietnam.

### **2.3 Conduct of the investigation**

#### **2.3.1 Statement of essential facts**

The initiation notice advised that the SEF would be placed on the public record by 14 September 2020. However, the due date for the SEF and final report was extended.<sup>12</sup> In the most recent extension, as advised in ADN No. 2021/007, the Commissioner approved an extension of time for the publication of the SEF until 23 April 2021.

#### **2.3.2 Australian Industry**

The Commissioner is satisfied that the applicant for the investigation, Signode Australia, represents the Australian industry producing like goods to the goods the subject of the investigation.

#### **2.3.3 Importers**

The Commission identified several importers in the Australian Border Force (ABF) import database that imported the goods from China and Vietnam during the investigation

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<sup>11</sup> EPR 553, Items 2 and 3.

<sup>12</sup> EPR 553, Items 7 and 13.

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period. The Commission forwarded importer questionnaires to 22 importers and placed a copy of the importer questionnaire on the Commission's website for completion by other importers who were not contacted directly.

Three responses were received from importers, two of which were selected for desktop verification. However, neither verification was completed due a decision by each importer not to participate fully in a verification process.

### 2.3.4 Exporters

The Commission forwarded questionnaires to 13 exporters at the beginning of the investigation. Lingyun Steel Strapping Limited completed the questionnaire by the initial due date of 3 July 2020. Two other exporters requested and were granted extensions to provide a questionnaire response (REQ). Responding exporters are summarised below:

Exporter name	Questionnaire submission date
<b>China</b>	
Lingyun Steel Strapping Limited	2 July 2020
Qinhuangdao Jiashilun Packaging Materials Co., Ltd	17 August 2020
<b>Vietnam</b>	
Sam Hwan Vina Co Ltd	23 July 2020

**Table 3 – Exporters who provided an REQ**

### 2.3.5 Foreign Governments

The Commission forwarded questionnaires to the Government of China (GOC) and the Government of Vietnam (GOV) at the beginning of the investigation. A response was received from both governments and have been considered by the Commissioner in reaching the conclusions contained within this SEF.

Public Record Item No.	Interested Party	Date Received
10	Government of China	15 August 2020
11	Government of Vietnam	3 August 2020

**Table 4 – Government questionnaire responses**

## 2.4 Submissions received from interested parties

The Commission received one submission from interested parties prior to the publication of this SEF. This submission has been considered by the Commissioner in reaching the conclusions contained within this SEF.

Public Record Item No.	Interested Party	Date Received
4	Government of Vietnam	15 May 2020

**Table 5 – Submissions considered in this SEF**

## **2.5 Preliminary affirmative determination**

In accordance with section 269TD(1), the Commissioner may make a PAD if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or a countervailing duty notice or it appears that there will be sufficient grounds for the publication of a dumping duty notice or a countervailing duty notice subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation (in relation to this investigation, a date no earlier than 30 May 2020) and the Commonwealth may require and take securities at the time a PAD is made or at any time during the investigation after a PAD has been made if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the initiation of such an investigation, the Commissioner must make either a PAD or provide a Status Report outlining the reasons why a PAD has not been made.

On 27 July 2020, the Commissioner published a Day 60 Status Report in ADN No. 2020/079.<sup>13</sup> In it the Commissioner stated that he did not make a PAD because he was not satisfied, under section 269TD(1)(a), that at that stage of the investigation there appeared to be sufficient grounds for the publication of a dumping duty or countervailing duty notice.

The PAD Direction also requires the Commissioner to reconsider making a PAD after the publication of a status report at least once prior to the publication of the SEF. In preparing this SEF, the Commissioner has reconsidered whether to make a PAD in view of the additional evidence available.

The Commissioner considers that the Commonwealth should take securities under section 42 in respect of interim dumping and countervailing duty that may become payable in relation to the goods exported to Australia from China and Vietnam.

The Commissioner is satisfied that securities are necessary to prevent material injury to the Australian industry occurring while the investigation continues. A detailed discussion of this is set out at Chapter 13 of this report.

Securities will apply to imports of like goods from China, except for goods exported from Jiashilun, entered for home consumption on or after **23 April 2021**.

## **2.6 Responding to this SEF**

This SEF sets out the essential facts on which the Commissioner proposes to base the final recommendations to the Minister. This SEF represents an important stage in the investigation. It informs interested parties of the facts established and allows them to

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<sup>13</sup> EPR 553, Item 6.

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make submissions in response to the SEF. It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses in making their final report to the Minister. The report will recommend whether or not a dumping duty notice and/or a countervailing duty notice should be published, and the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than **13 May 2021**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.

The Commissioner must report to the Minister by 15 June 2021.

Submissions should preferably be emailed to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Alternatively, interested parties may post submissions to:

Director, Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission for inclusion on the EPR is required.

A guide for making submissions is available at the Commission's web site [www.adcommission.gov.au](http://www.adcommission.gov.au).

The Public Record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents.

Documents on the EPR should be read in conjunction with this SEF.



## 3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

### 3.1 Preliminary finding

The Commission is satisfied that the locally manufactured painted steel strapping are like goods to the goods the subject of the application.

### 3.2 Legislative framework

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

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods. Section 269T(1) defines like goods as:

*goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are “like” to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

### 3.3 The goods

#### 3.3.1 The goods description

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

*Painted steel strapping, of carbon steel, whether or not in coils, whether or not waxed, with a nominal width of 12 mm to 32 mm, a nominal thickness of 0.5 mm to 1.5mm.*

*Stainless steel strapping and galvanised steel strapping are excluded from the goods.*

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The goods are used for the purposes of load containment or lifting in a range of industries. There are a number of grades of hot rolled coil (HRC) steel<sup>14</sup> that can be used to manufacture painted steel strapping depending on the product that needs to be contained, how it is to be contained and where it is to be transported to.

### 3.3.2 Tariff classification of the goods

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:<sup>15</sup>

Tariff Subheading	Statistical Code	Description
7212		FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF LESS THAN 600 mm, CLAD, PLATED OR COATED:
7212.40.00		Painted, varnished or coated with plastics:
	62	Of a width not exceeding 32 mm

**Table 6 – General tariff classification for the goods**

### 3.4 Model Control Codes

The Commission has used a model control code (MCC) structure in order to identify key characteristics for, among other things, model matching when comparing export prices and normal values (the basis for using a MCC structure and the Commission's practice is explained in ADN No. 2019/132). All interested parties participating in this investigation were requested to provide sales and cost data in accordance with the MCC structure detailed in the table below.

	Category	Sub-Category	Identifier	Sales Data	Cost Data
1	Hot rolled coil carbon content	≤0.22 %	C1	Mandatory	Mandatory
		>0.22 % to ≤0.37 %	C2		
		>0.37 % to ≤0.54 %	C3		
		≥0.54 %	C4		
2	Width	≤12.7 mm	W1	Mandatory	Optional
		>12.7 mm to ≤16.0 mm	W2		
		>16.0 mm to ≤19.1 mm	W3		
		>19.1 mm to ≤32.0 mm	W4		
3	Thickness	≤0.7 mm	T1	Mandatory	Optional
		>0.7 mm to ≤1.0 mm	T2		
		>1.0 mm	T3		
4	Break force	≤10 KN	B1	Mandatory	Optional
		≥10 to <15 KN	B2		
		≥15 KN to <25 KN	B3		

<sup>14</sup> The goods may not exclusively be manufactured using HRC.

<sup>15</sup> These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes is for convenience and reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

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		≥25 KN	B4		
5	Metres per kilogram	≤5 m/kg	S	Mandatory	Optional
		≥5 m/kg to <10 m/kg	M		
		≥10 m/kg	L		
6	Coil winding	Ribbon wound	R	Optional	Optional
		Mill/rope wound	M		
		Other (including not in coils)	O		

**Table 7 – MCC Structure**

Any changes to the proposed MCC structure, or alterations in terms of its application in respect of each interested party, have been addressed in the relevant verification reports which are available on the EPR.

### 3.5 Like goods

An application can only be made if there exists an Australian industry producing ‘like goods’ to the goods the subject of the application. The phrase ‘like goods’ is defined in section 269T(1). Sections 269T(2), 269T(3), 269T(4), 269T(4A), 269T(4B) and 269T(4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.<sup>16</sup>

The following analysis outlines the Commission’s assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods.

#### 3.5.1 Physical likeness

The Commission has found that both the imported goods and the goods produced by the Australian industry are physically alike. Both are traded in a similar range of widths, thicknesses and break force, as specified in the goods description.

#### 3.5.2 Commercial likeness

The Commission has found that the imported and locally produced goods are commercially similar. Imported goods and goods produced by the Australian industry are interchangeable and compete in the same market sectors, e.g. steel, timber and mining industries, with direct head-to-head competition between them.

#### 3.5.3 Functional likeness

The Commission has found that the imported and locally produced goods are functionally alike as they compete for sales to the same customers for similar (or the same) end-uses, i.e. packaging in the steel, timber and mining industries.

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<sup>16</sup> See Chapter 4 for further discussion on the Australian industry.

### **3.5.4 Production likeness**

The Commission has found that the production processes and raw material inputs for the imported and locally produced goods are alike in all significant practical aspects.<sup>17</sup> HRC or cold rolled coil (CRC) is the major raw material input.

### **3.5.5 Like goods assessment**

Based on the findings above, the Commission considers that goods produced by the Australian industry have characteristics identical or closely resembling the goods exported to Australia. The Commission considers that:

- the goods and the domestically produced goods are physically alike, as they have the same or similar the primary physical characteristics;
- the goods and the domestically produced goods are commercially alike, as they are sold to common users and directly compete in the same market;
- the goods and the domestically produced goods are functionally alike, as they have a similar range of end uses; and
- the goods and the domestically produced goods are manufactured in a similar manner.

In light of the above, the Commissioner is satisfied that the Australian industry produces 'like goods' to the goods the subject of the application, as defined in section 269T.

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<sup>17</sup> See Chapter 4.5 for further discussion on the production process.

## 4 THE AUSTRALIAN INDUSTRY

### 4.1 Preliminary finding

The Commissioner is satisfied that there is an Australian industry, consisting wholly of Signode Australia, producing like goods and that the like goods are wholly or partly manufactured in Australia.

### 4.2 Legislative framework

The Commissioner must be satisfied that the like goods are in fact produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

### 4.3 Australian industry

In its application, Signode Australia claimed it is the only Australian manufacturer of like goods. No further Australian industry manufacturers of like goods identified themselves to the Commission following the initiation of the investigation, nor were any further Australian industry manufacturers identified by the Commission during the investigation.

### 4.4 Submissions received in respect of the Australian industry

#### 4.4.1 No Australian manufacturer of the goods

The Trade Remedies Authority of Vietnam (TRAV), a body of the GOV, in its submission dated 15 May 2020 queried whether there was a “domestic industry” producing the goods on the following grounds:<sup>18</sup>

- Article 4.1 of the Antidumping Agreement (ADA) provides that a domestic industry does not include producers who are related to exporters or importers of the goods, or are themselves an importer of the allegedly dumped goods;
- On this basis, Signode Australia may be excluded from the domestic industry;
- With Signode Australia excluded from the domestic industry, there would remain no other domestic producers of the goods to constitute an Australian domestic industry.

TRAV submits that Article 5.1 of the ADA provides that an investigation into alleged dumping shall be initiated upon an application by or on behalf of the domestic industry. Accordingly, if there is no domestic industry producing the goods pursuant to Article 4.1, an investigation into alleged dumping could not be initiated pursuant to Article 5.1.

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<sup>18</sup> EPR 553, Item 4.

#### **4.4.2 Commission's assessment**

The relevant sections of the Act concerning the initiation of an investigation by Australian industry are sections 269TB(4)(e) and 269TB(6).

Section 269TB(4)(e) provides that an application for a dumping and/or a countervailing duty notice must be supported by a sufficient part of the Australian industry.

Section 269TB(6) provides that such an application is taken to be supported by a sufficient part of the Australian industry:

*...if the Commissioner is satisfied that persons (including the applicant) who produce or manufacture like goods in Australia and who support the application:*

*(a) account for more than 50% of the total production or manufacture of like goods produced or manufactured by that portion of the Australian industry that has expressed either support for, or opposition to, the application; and*

*(b) account for not less than 25% of the total production or manufacture of like goods in Australia.*

As detailed in CON 553, the Commissioner was satisfied that Signode Australia represents the entire Australian industry and accounts for more than 50% of the total Australian production of like goods, thereby satisfying the requirements of sections 269TB(4)(e) and 269TB(6).

The Anti-Dumping Commission *Dumping and Subsidy Manual* (the Manual) states on this issue:

*There are no provisions in the Act to exclude from the definition of Australian industry a producer/manufacturer that is related to an exporter, or that is itself an importer of allegedly dumped or subsidised goods.<sup>19</sup>*

The Commission has also reviewed imports of painted steel strapping as reported in the ABF import database for the investigation period and did not identify any imports of the goods by Signode Australia or a related party of Signode Australia.

In light of the above, the Commission is satisfied that the investigation has been properly initiated in accordance with the Act.

#### **4.5 Production process**

In its verification of the information provided by Signode Australia in its application,<sup>20</sup> the Commission determined the production process for painted steel strapping by Australian industry to be as follows:

- HRC master coil is processed through a splitter into smaller coil widths;

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<sup>19</sup> The Manual, part 1.1.

<sup>20</sup> Signode Australia – Industry Verification Report, EPR 553, Item 16.

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- Smaller coils are fed through a slitting line and cut into strips;
- Strips are processed through a heat treatment line to achieve desired tensile and elongation properties;
- Strips pass through an inline paint process and then through an infra-red oven;
- Strips are re-wound into coils ranging of varying weights and packaged;
- Strapping is cut to length, typically by end-users, following production.

### **4.6 Commissioner's assessment**

The Commissioner is satisfied that there is an Australian industry, consisting wholly of Signode Australia, producing like goods, and that the like goods are wholly or partly manufactured in Australia.

## 5 AUSTRALIAN MARKET

### 5.1 Preliminary finding

The Commissioner has found that the Australian market for painted steel strapping is supplied by the Australian industry and imports from a number of countries, including the subject countries. Imports from each of the subject countries, as a percentage of the total Australian import volume of the goods, were above negligible levels.

### 5.2 Background

The Australian market for the goods and like goods is supplied by Signode Australia as the sole member of the Australian industry, as well as manufacturers from other countries who export to Australian customers directly or through intermediaries and distributors.

Imports of the goods into the Australian market are sourced from numerous countries. However, in recent years the highest volumes have originated from the subject countries.

The analysis of the Australian market detailed in this chapter is based on verified information submitted by Signode Australia, import data from the ABF import database and verified exporter information.

### 5.3 Market structure

The Australian market for painted steel strapping consists of Signode Australia as the sole local manufacturer, exporters and importers, distributors, re-sellers and end-users.

Painted steel strapping is supplied to a range of market sectors including food production, steel manufacturing, mining, paper, timber, wool and recycling.

#### 5.3.1 Markets and distribution

Like goods manufactured by the Australian industry are produced for various markets within Australia, but not for any particular application or market segment. Like goods are usually available in stock to fulfil orders, with some products produced on request. Signode Australia distributes its goods from its warehouses located around Australia, either directly to its end-user customers or to third party distributors. There is no formal distribution arrangement between Signode Australia and the third party distributors, who may also import the goods.

Similar to the Australian industry, overseas producers who supply the Australian market have a similar product offering and service the Australian market in a manner comparable to the Australian industry. Overseas producers compete directly with the Australian industry and receive purchase orders from Australian customers directly. Goods imported into Australia may be shipped directly to an end-user customer's location or warehoused at an importer's facility before dispatch.



### **5.3.2 Supply**

Painted steel strapping is a commodity product. Provided the goods meet the relevant grade requirements for the desired end-use, there are limited ways in which suppliers can differentiate their offering beyond price and service. In most circumstances, customers are able to easily change suppliers.

Signode Australia supplies like goods to end-users, either directly or through third party distributors, who use the goods, with no or only minimal alteration, for load containment.

In addition to domestic producers of like goods, the Australian market is supplied by producers from other countries who supply Australian customers directly or via Australian distributors. Overseas producers supply the same market segments as the Australian industry and in some cases the same customers.

Imported painted steel strapping in the Australian market is sourced from numerous countries, with the highest volumes over the investigation period coming from the subject countries.

### **5.3.3 Demand**

Demand for painted steel strapping is driven by the output of its end-users, primarily from the following industries within Australia:

- steel manufacturing;
- timber;
- mining;
- food production;
- paper;
- wool; and
- recycling.

The Commission considers that movements in the above industries will accordingly impact demand for the goods and like goods.

## **5.4 Pricing**

Signode Australia explained during verification it is a 'price taker' in the market and bases its prices on an import price parity pricing strategy, also taking into account its cost to make (CTM) the goods which are largely driven by raw material costs. However, there is little price transparency in the Australian market for painted steel strapping. As a result, its awareness of price in the market is generally via interactions with its customers or other publicly accessible market intelligence.

The price sensitivity of steel strapping is dependent on its application, with strapping used in simple applications being particularly price sensitive.

The Commission's examination of questionnaire responses from entities which cooperated with the investigation found that pricing for the goods exported to Australia from the subject countries is based on a 'cost-plus' pricing strategy, with exporters seeking to set a price based on the CTM of the goods, largely driven by raw material

costs, and maximising their margin over their costs, which is based on a consideration of prices offered by competing suppliers. Prices are negotiated regularly with customers often on a transaction by transaction basis.

## **5.5 Market size**

### **5.5.1 Application**

In its application, Signode Australia relied upon its own sales data in relation to the goods and import data for HTISC<sup>21</sup> 7212400062, 'Flat-rolled products of iron or non-alloy steel, painted, with a width not exceeding 32 mm' sourced from the Australian Bureau of Statistics (ABS).

The HTISC used by Signode Australia in its application is the same as tariff subheading 7212.40.00, statistical code 62 in Schedule 3 to the *Customs Tariff Act 1995*. This is discussed further in chapter 3.3.2.

### **5.5.2 Commission's assessment**

The Commission is satisfied that the tariff classification identified by Signode Australia is suitable for estimating the size of the Australian market.

In its examination of the volume of imports of the goods into Australia, the Commission has used data extracted from the ABF import database in respect of consignments declared under the identified tariff classification. Data from the ABF import database is preferred over data from the ABS as it provides detail to a greater granular level.

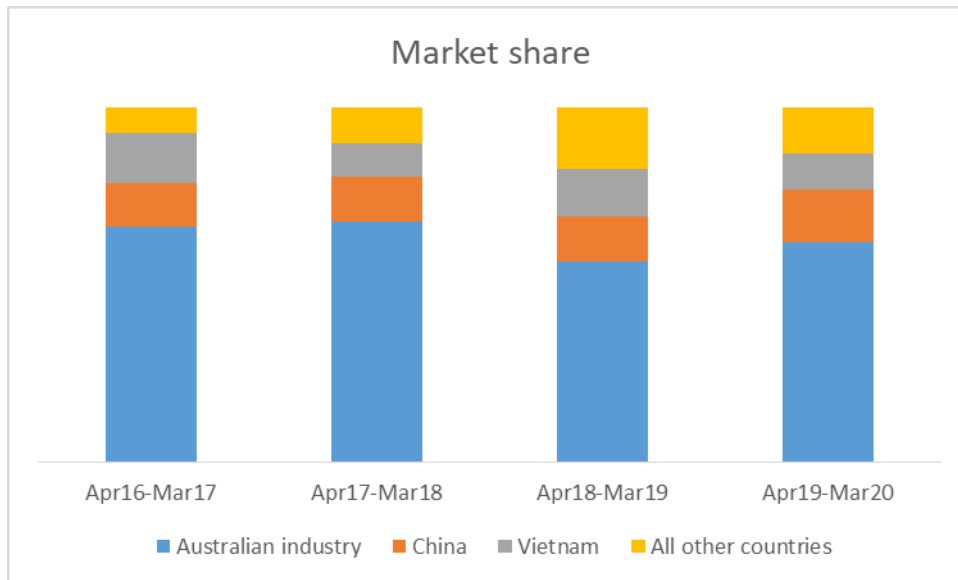
To exclude outlying data, which may distort any findings, the Commission has then filtered the data to exclude transactions where the Free on Board (FOB) price per tonne was outside a range of AUD\$500 to AUD\$5,000. This is considered a reasonable price range to use as a filter for the goods, based on the export price and normal values observed by the Commission during the investigation. The Commission has also excluded transactions which it determined were not in relation to the goods, based on the description recorded in the ABF import database.

The Commission has then estimated the size of the Australian market for the goods from 1 April 2016 to 31 March 2020 using the import data as discussed above, along with verified sales data from Signode Australia.

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<sup>21</sup> Harmonised Tariff Item Statistic Code.

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**Figure 1 – Australian market size**

The Commission's assessment of the size of the Australian market is at **Confidential Attachment 1**.

## **6 DUMPING INVESTIGATION**

### **6.1 Preliminary finding**

The Commission has found that the goods exported to Australia from China and Vietnam were dumped, except for goods exported by Jiashilun. Goods dumped by Sam Hwan were dumped at a negligible dumping margin.

The Commission’s assessment of dumping margins is set out in the table below.

Exporter	Dumping Margin (%)
Jiashilun	- 6.2
All other Chinese exporters	11.5
Sam Hwan	1.7
All other Vietnamese exporters	4.3

**Table 8 – Dumping Margins**

### **6.2 Legislative and policy framework**

In the report to the Minister under section 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Minister must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Section 269TDA(1) also requires that the Commissioner must terminate the investigation, in so far as it relates to an exporter, if satisfied that there has been no dumping by the exporter, or there has been dumping during the investigation period, but the dumping margin is less than 2%.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC, respectively.

#### **6.2.1 Dumping margin**

For all dumping margins calculated for the purposes of this investigation, the Commission compared export prices over the whole of the investigation period with the corresponding normal values.

#### **6.2.2 Export price**

Export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods are ‘arms length’ transactions under section 269TAA. Section 269TAB(1)(a) generally provides that the export price of any goods exported to Australia is the price paid (or payable) for the goods by the importer where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in ‘arms length’ transactions.

### **6.2.3 Normal value**

Section 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid (or payable) for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are 'arms length' transactions by the exporter, or, if like goods are not so sold by the exporter, by other sellers of like goods.

#### Low volume of domestic sales

Section 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under section 269TAC(1). Relevant sales are sales of like goods sold for home consumption that are 'arms length' transactions and sold in the OCOT.

Domestic sales of like goods are taken to be in a low volume where the total volume of like goods is less than 5% of the total volume of the goods under consideration that are exported to Australia (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison). As per the Manual, where the total volume of relevant sales is 5% or greater than the total volume of the goods under consideration, and where comparable models exist, the Commission also considers the volume of relevant domestic sales of like goods for each model (or MCC).

#### Particular market situation

Section 269TAC(2)(a)(ii) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under section 269TAC(1).

Signode Australia alleged in its application that a particular market situation exists in relation to the domestic market for like goods for both China and Vietnam. Particular market situation is discussed further in chapter 6.3.

## **6.3 Particular market situation**

### **6.3.1 Introduction**

Section 269TAC(2)(a)(ii) implements, in part, Article 2.2 of the ADA:

*When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country [footnote omitted], such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.*

Where a particular market situation is found, pursuant to section 269TAC(2)(a)(ii), the Commission must further consider whether, because of the situation in the subject

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market, sales in that market are also not suitable for determining a price under section 269TAC(1).

If a market situation exists in a country, such that domestic sales are not suitable for comparison with export sales, normal values may instead be constructed under section 269TAC(2)(c) or determined by reference to prices from a third country under section 269TAC(2)(d).

The Act does not prescribe what is required to reach a finding of a market situation. A market situation will arise when there is some factor or factors impacting the relevant market in the country of export generally. When considering whether sales are not suitable for use in determining a normal value under section 269TAC(1), because of the situation in the market of the country of export, the Commission may have regard to factors such as:

- whether the prices are artificially low; or
- whether there are other conditions in the market that render sales in that market not suitable for use in determining prices under section 269TAC(1).

Government influence on prices or input costs could be one cause of artificially low prices. Such government influence could come from any level of government.

In assessing whether a market situation exists due to government influence, the Commission will assess whether government involvement in the domestic market has materially distorted market conditions. If market conditions have been materially distorted, then domestic prices may be artificially low or not substantially the same as they would be in a market free of material distortion.

Prices for the like goods may also be artificially low or not substantially the same as they would otherwise be due to government influence on the costs of inputs. The Commission assesses the effect of any such influence on market conditions and the extent to which domestic prices can no longer be said to prevail in a normal competitive market.

The Manual provides further guidance on the circumstances in which the Commission will find that a market situation exists.<sup>22</sup>

### **6.3.2 Information relied upon to undertake the Commission's assessment**

In undertaking its assessment of whether a market situation exists in either China or Vietnam, the Commission has considered the following:

- the information provided in the application;
- response to the government questionnaire by the GOC and the GOV;
- REQs by cooperating exporters;
- previous market situation assessments undertaken by the Commission;<sup>23</sup> and

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<sup>22</sup> The Manual, p. 36.

<sup>23</sup> A number of past cases have made market situation findings concerning steel products in China, with the following cases particularly relevant as the products examined have HRC as the chief raw material input:

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- desktop research, including information obtained from departmental resources and third party information providers.

### 6.3.3 The Commission's approach

In line with its legislative requirements, the Commission's market situation assessment is undertaken at the level of the goods and like goods.

The Commission has given consideration to conditions:

- within the broader steel industry in each country and the degree to which these may impact on prices and/or raw material costs;
- in the Chinese and Vietnamese market for the raw materials used to produce the goods; and
- in the Chinese and Vietnamese markets for like goods.

### 6.3.4 Significance of HRC costs in the production of the goods

The Commission has found that HRC and CRC are the major raw material inputs used in the production of painted steel strapping.

CRC is made from HRC which has undergone further processing through rolling at low temperatures (generally room temperature). The process affects the performance and application properties of the coil, but not its specifications or grade. There is no additional material input other than HRC in the production of CRC, with CRC retaining the same metallurgical composition as its HRC input. The Commission considers that CRC costs, while generally higher than HRC due to the additional processing, are closely related to the costs of HRC and are impacted to the same extent as HRC by any influence on the HRC market.

The Commission has verified the HRC and CRC costs associated with the production of the goods and like goods during the investigation period for all producers. The Commission found that coil costs (whether hot or cold rolled) represented a significant and broadly consistent proportion of the CTM of the goods and like goods. This is depicted in the table below.

Country of production	Percentage of total CTM made up by HRC/CRC	Percentage of raw material costs made up by HRC/CRC
Australia	70%	100%
China	90%	99%
Vietnam	83%	95%

**Table 9 – Raw material coil as a proportion of CTM of the goods<sup>24</sup>**

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REP 177 (HSS - 2012), REP 379 (HSS - 2017), REP 456 and 457 (coated steels - 2018) and REP 419 (HSS - 2018).

<sup>24</sup> Confidential Attachment 2 – CTM breakdown.

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The proportion of CTM represented by raw material costs for Australian producers is higher than that for Chinese and Vietnamese producers primarily due to higher manufacturing overheads.

Cooperating exporters from both China and Vietnam advised the Commission that raw material prices are influential in setting selling prices for the goods and like goods, with lower raw material prices resulting in lower painted steel strapping prices.

Given the high cost proportion of HRC in the production of the goods and like goods and its influence on pricing decisions, the Commission considers that HRC price has a significant impact on both the production cost and selling price of the goods and like goods.

### 6.3.5 China

In its application, Signode Australia claimed that due to the influence of the GOC in the Chinese steel industry there is a particular market situation in the Chinese domestic market for painted steel strapping that renders sales in that market unsuitable for determining normal values under section 269TAC(1).

In making its claim, Signode Australia has referred to previous findings by the Commission relating to GOC influence in steel markets and the impact on HRC prices, the key raw material used in the manufacture of painted steel strapping.<sup>25</sup>

Upon initiation, the Commission sent a questionnaire to the GOC requesting information in relation to the painted steel strapping market in China. The GOC response to the questionnaire was provided to the Commission on 15 August 2020.<sup>26</sup>

The GOC made a number of statements as part of its questionnaire response.<sup>27</sup> These have been summarised below:

- There is no price control or substantive subsidies in respect of steel products in China, including HRC.
- Steelmaking is an important part of the GOC's macro-economic policy. Given the high-emissions from steelmaking, the industry is subject to international commitments and GOC policies imposing environmental and carbon emission requirements. These measures may have had the effect of limiting steel output and increasing production costs. These sorts of regulations are consistent with that of other countries, including Australia.
- The GOC has no specific involvement with painted steel strapping, other than setting national standards relating to quality, safety and hazardous substance prevention.

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<sup>25</sup> See, for example, findings set out in *Anti-Dumping Commission Report No. 441* (steel pallet racking), *Anti-Dumping Commission Report Nos. 456 and 457* (aluminium zinc and zinc coated steels) and *Anti-Dumping Commission Report No. 379* (HSS).

<sup>26</sup> EPR 553, Item 10.

<sup>27</sup> EPR 553, Item 10



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In assessing whether a market situation exists in relation to the Chinese painted steel strapping market in the investigation period, the Commission has relied on and considered all the evidence available to it, including the GOC's RGQ, REQs, any other submissions made in this investigation, the findings of previous cases conducted by the Commission and desktop research. The available evidence includes:

- the level of import competition in the Chinese domestic market as a result of GOC involvement and influence over the broader steel industry as well as the HRC and painted steel strapping markets;
- various subsidy programs, lending and credit facilities, preferential loans, land grants and capacity controls affecting domestic output and consumption of steel;
- capacity management measures on bank lending to mills, industry consolidation and use of environmental requirements;
- Chinese steel industry response to GOC directives such as the 13th *Five-Year Plan for National Economic and Social Development* and the *Iron and Steel Industry Adjustment and Upgrade Plan*;
- implementation of GOC objectives through the National Development and Reform Commission, through its dual role of developing planning guidelines and directives and approving large scale investment projects;
- the share of total Chinese steel production by State-owned Enterprises (SOEs); and
- export taxes and export quotas on a number of key inputs in the steel making process including coking coal, coke, iron ore and scrap steel.

In light of all the information before the Commission, it is the Commission's view that a particular market situation existed in respect of the domestic market for painted steel strapping in China for the investigation period.

A complete examination of the evidence for this finding is set out in **Non-confidential Appendix A**.

### 6.3.6 Vietnam

Signode Australia has also claimed in its application that GOV influence on the steel industry in Vietnam, through a broad range of government policies, has distorted domestic selling prices of painted steel strapping such that prices are not determined in a competitive manner and are substantially different to what they would otherwise be in a competitive market. In Signode Australia's view, this has resulted in a particular market situation in the Vietnamese painted steel strapping market that renders sales in that market unsuitable for determining normal values under section 269TAC(1).

Signode Australia has claimed the GOV has intervened in the domestic steel industry through:

- Steel Master Plans;
- imposition of technical barriers and environmental standards;
- State ownership of large integrated Vietnamese steel manufacturers;
- domestic price stabilisation initiatives; and
- steel industry subsidisation.

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In its 15 May 2020 submission,<sup>28</sup> the GOV claimed insufficient evidence was provided by Signode Australia in its application to support the assertion that there is a particular market situation in the Vietnamese market for painted steel strapping. The GOV further submitted that:

- the alternative methodology available to WTO members in anti-dumping investigations when determining price comparability, as set out in Vietnam's Protocol of Accession to the WTO,<sup>29</sup> expired on 31 December 2018 and is therefore not available in this investigation;
- in 2008 the Australian Government recognised Vietnam as a market economy;
- there have been changes to its Steel Master Plans such that they have been invalid since the beginning of 2019;
- the findings of the Canada Border Services Agency (CBSA) in its investigations into subsidies of certain oil country tubular goods and cold rolled steel exported from Vietnam to Canada referred to in the application were made in the absence of a response from Vietnamese exporters and should not be regarded in the current investigation; and
- in an anti-dumping investigation into carbon welded pipe in 2018, the CBSA found that the evidence did not support a conclusion that GOV involvement determines the domestic carbon steel welded pipe price in Vietnam.

The GOV was also sent a questionnaire requesting further information in relation to the painted steel strapping market in Vietnam. The GOV response to the questionnaire was provided to the Commission on 3 August 2020.<sup>30</sup>

In assessing whether a market situation exists in relation to the Vietnamese painted steel strapping market in the investigation period, the Commission has relied on all the evidence available to it, including questionnaires and submissions made in this investigation and desktop research. This includes:

- previous investigations by the Commission which did not find there to be a particular market situation present in respect of the relevant goods;<sup>31</sup>
- the expiry of the Steel Master Plans in late 2018 with no evidence of any ongoing influence on the plans;
- the expiry of legislation implementing price stabilisation measures in 2014;
- the right of enterprises to determine their own prices at which goods and services which they manufacture are sold;
- the lack of evidence of a significant role for Vietnamese SOEs in the steel, HRC or painted steel strapping market;
- the minimal levels of subsidisation found in respect of upstream raw materials or the goods themselves;
- the level of import penetration in the domestic steel Vietnamese market; and

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<sup>28</sup> EPR 553, Item 4.

<sup>29</sup> WTO, Report of the Working Party on the Accession of Vietnam, WT/AA/VNM/48, 27 October 2006, at paragraph 255 and 527; Vietnam's Protocol of Accession to the WTO, WT/L/662, 15 November 2006, at paragraph 2.

<sup>30</sup> EPR 553, Item 11.

<sup>31</sup> See Appendix B2.2.

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- evidence that raw materials for Vietnamese exporters are in line with benchmark costs in comparable countries.

In light of all the information before the Commission, it is the Commission's view that a particular market situation did not exist in respect of the domestic market for painted steel strapping market in Vietnam for the investigation period.

A complete examination of the evidence for this finding is set out in **Non-confidential Appendix B**.

### 6.4 Proper comparison of domestic and export prices

#### 6.4.1 Introduction

Where a particular market situation is found, pursuant to section 269TAC(2)(a)(ii), the Commission must also consider whether, because of the situation in the market of the country of export, sales of like goods in that market are not suitable for determining a price under section 269TAC(1).

As a particular market situation has been found in respect of the domestic market for painted steel strapping in China for the investigation period, the Commission will examine whether goods in that market are suitable for determining a price under section 269TAC(1).

No such examination is required for goods in the domestic market in Vietnam, as the Commission considers that a particular market situation did not exist in respect of the painted steel strapping market in Vietnam for the investigation period.

#### 6.4.2 Approach to proper comparison

In order to assess whether sales are suitable for the purposes of section 269TAC(1), the Commission's approach to assessing proper comparison considers the relative effect of the market situation on both domestic sales and Australian export sales. If there is a finding that domestic sales and export sales are not equally impacted by the market situation, such a finding may render domestic sales not suitable for the purposes of section 269TAC(1).

The Commission considers this approach consistent with Australia's obligations under the ADA<sup>32</sup> and the WTO Panel's interpretation of these obligations set out in the WTO Panel Report *Australia – Anti-Dumping Measures on A4 Copy Paper* (DS 529).<sup>33</sup>

When assessing the relative effect of the particular market situation on domestic and export prices, the Commission has compared the existing relationships between price and cost in the domestic and export markets of the exporting country. These relationships will be defined by the prevailing conditions of competition in each market. This has involved an examination of:

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<sup>32</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/19-adp\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/19-adp_01_e.htm)

<sup>33</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds529\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds529_e.htm)

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- the relationship between raw material costs and the domestic and Australian export prices for the goods for each relevant producer of the goods and like goods;
- the domestic market conditions (the particular market situation) leading to those costs and prices; and
- export market conditions.

The Commission considers that the relationship between cost, price and competition will provide insight into the effect of the market situation in the country of export (domestic prices) and Australian markets (export prices). In turn, it will provide insight into whether a proper comparison is permitted between domestic prices and Australian export prices.

In particular, the Commission has undertaken:

1. a *quantitative* assessment of prices, noting that “...a purely numerical comparison between the two prices may not reveal anything about whether the domestic price can be properly compared with the export price”;<sup>34</sup> and
2. a *qualitative* assessment of prices, to “...focus on how the particular market situation affects that comparison.”<sup>35</sup>

This approach assesses both the effect of the particular market situation on domestic and export prices. This is because while “...a particular market situation may have an effect on both domestic and export prices, it does not follow that the impact on domestic and export prices will be the same.”<sup>36</sup>

### 6.4.3 Examination of Australian conditions of competition

#### Market structure

The Australian market for painted steel strapping has been discussed in detail in chapter 5 of this report. In summary:

- The Australian market for painted steel strapping is supplied by Australian industry and imports from other countries, sold directly to customers or through local distributors;
- Australian industry supplies the greatest volume in Australia. The highest volume of imports come from China and Vietnam;
- Overseas producers compete directly with the Australian industry and supply the same market segments as Australian industry, with Australian produced like goods and imported goods readily substitutable; and
- Demand for painted steel strapping is driven by customer output, primarily from steel manufacturing, timber, mining, food production, paper, wool and recycling.

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<sup>34</sup> DS 529 – para. 7.75.

<sup>35</sup> DS 529 – para. 7.75.

<sup>36</sup> DS 529 – para. 7.76.

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The Commission considers the Australian market for painted steel strapping is a competitive market, characterised by a large number of suppliers and customers engaging in commercial negotiations.

### Raw material

The major raw material used in the production of the goods in Australia is HRC, purchased from Australian suppliers.

From its previous investigations into HRC, the Commission understands that price is generally the main factor which influences an Australian customer's purchase decision for HRC. Australian producers of HRC set their price based on an import benchmark pricing strategy where known import offers in the Australian market are used to determine the level at which it sets its selling price.<sup>37</sup>

Australian produced HRC competes with imported goods mostly at the wholesale or distribution level of trade. These customers then on-sell the HRC to end users or other resellers, predominantly in the general manufacturing and pipe and tube industry.<sup>38</sup>

### Import penetration

The Commission examined the ABF import database to identify exporters and importers of painted steel strapping during the investigation period. The Commission observed that during the investigation period:<sup>39</sup>

- the goods were exported to Australia from 7 countries by 25 unique exporters, with 12 exporters from China and 2 from Vietnam;
- 31 unique importers were identified as having imported the goods;
- imports accounted for 38% of sales in the Australian market; and
- of these imports, Chinese imports accounted for 39% of sales and Vietnamese imports 27%.

The GOC in its RGQ observed that the nature of the Australian market, with only one local manufacturer, may create an uncompetitive market, driving up prices and therefore attracting imports.

While the observation that there is only one domestic manufacturer of the goods in Australia is accurate, the Commission does not agree that the Australian market is uncompetitive. The presence of a number of importers with material import volumes from numerous countries indicates to the Commission that the Australian market for painted steel strapping can be characterised as having a high level of import penetration contributing to a competitive market for the goods between participants.

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<sup>37</sup> REP 400, chapter 4.3.2.

<sup>38</sup> REP 400, chapter 4.3.

<sup>39</sup> Confidential Attachment 1 – Australian Market Analysis.

#### **6.4.4 Examination of Chinese conditions of competition**

##### Market structure

As discussed in chapter 6.3.5, the GOC was sent a questionnaire requesting information in relation to the painted steel strapping market in China. In its RGQ, the GOC submitted that painted steel strapping is a relatively new product in the Chinese market, widely used in construction, shipbuilding, automotive manufacturing, white goods and electric appliances sectors.

Questionnaire responses from the GOC and the cooperating exporter indicated pricing for painted steel strapping industry is unregulated. Prices are set in the market in commercial transactions between buyers and sellers resulting in competitive market prices.

The GOC advised the Commission to undertake its own inquiry with market participants to gain further understanding of the Chinese market for the goods. However, the sole cooperating Chinese exporter, Jiashilun, advised in its REQ that it is unable to provide any specific detail regarding the market, including sources of demand, market segmentation and competition between Chinese and imported goods, other than an assertion the Chinese market for the goods is competitive. However, it did confirm its main use is for packing steel, wood and building materials.

Nonetheless, while the Commission has found a particular market situation in respect of the Chinese market for the goods, as set out in chapter 6.3.5, on the information available to it, the Commission is satisfied there is a large volume of participants engaging in commercial negotiations for the sale and purchase of painted steel strapping, which is indicative of competition, albeit where all participants are impacted by a particular market situation.

##### Raw material

The GOC submitted that Chinese producers of the goods used raw materials sourced from both local and foreign suppliers. However, from the data provided to the Commission during verification, the major raw material used in the production of the goods in China is CRC, purchased from Chinese suppliers.

The GOC submitted prices for HRC (and accordingly CRC) are unregulated. Prices are set in the market through commercial transactions between buyers and sellers and result in competitive prices.

While the Commission has found a particular market situation in respect of the Chinese market for the goods, as set out in chapter 6.3.5, the Commission is satisfied that, like the market for painted steel strapping, there is a large volume of participants who engage in commercial negotiations in the sale and purchase of HRC and CRC, which is indicative of competition, albeit impacted by government distortions.

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The Commission examined the monthly CRC price paid by the cooperative Chinese exporter with the monthly Chinese CRC MEPS<sup>40</sup> benchmark and the CRC MEPS benchmarks for Korea and Taiwan. The Commission also compared the monthly HRC MEPS benchmark for China, Korea and Taiwan.

While the Commission is not able to directly compare the raw material costs paid by Chinese manufacturers with that of Australian industry, as the data for Chinese manufacturers available to the Commission is only for CRC, whereas the data for Australian industry is only for HRC, the Commission was able to look at pricing patterns in CRC prices paid by the cooperative Chinese exporter and CRC MEPS benchmark prices for China, Korea and Taiwan. The Commission also looked at pricing patterns in the HRC MEPS benchmark prices for China, Korea and Taiwan. From these datasets, the Commission has observed that in relation to the investigation period:

- there is only minor differences between CRC and HRC benchmark prices in Korea compared to CRC and HRC benchmark prices in Taiwan (in other words, Korean and Taiwanese prices are largely the same);
- Chinese benchmark prices for both CRC and HRC are lower at all times than the Korean and Taiwan benchmark; and
- Jiashilun CRC prices are the same or lower than the Chinese CRC benchmark price.

The Commission has compared the Chinese HRC benchmark price with the HRC price paid by Australian industry and found that Chinese HRC is priced well below Australian prices throughout the investigation period.

As part of its RGQ, the GOC rejected the assertion that raw material costs for the goods are artificially low. It submitted that the Chinese steel market is the most competitive in the world with more participants than any other countries and that purchases of raw materials are competitive and based on market conditions. Most steel production is used within the Chinese domestic market. However, China is a significant steel importer and a net importer of both HRC and CRC.

Based on the information available to the Commission, the Commission agrees with the GOC that the Chinese domestic market for CRC and HRC is competitive. However, the Commission disagrees that prices are not “artificially low” and is satisfied the evidence from the verification of the cooperative exporter’s raw material costs and MEPS data indicates Chinese manufacturers have access to cheaper raw material inputs. The Commission considers the Chinese domestic market conditions lead to lower prices for HRC and CRC due to the distortions in the Chinese market, as discussed in **Non-confidential Appendix A**.

The Commission’s raw material input analysis is at **Confidential Attachment 3**.

### Import penetration

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<sup>40</sup> MEPS is an international independent supplier of steel market data and information. The Commission has a subscription service with MEPS for the provision of such data.

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The GOC provided confidential information in its RGQ regarding the degree of import penetration into the Chinese market. A significant majority of painted steel strapping manufactured in China was sold domestically, with a small amount exported and a negligible amount of imports.

The GOC advised there are a large number of producers of the goods within China, with a low barrier for entry into the market. This includes foreign companies. However, the examples of foreign companies identified by the GOC did not import the goods but had manufacturing facilities within China.

From the information provided by the GOC, the Commission has determined that the size of the Chinese market for the goods is massively bigger than the Australian market.

The Commission examined the ABF import database and noted that 12 Chinese manufacturers exported to Australia during the investigation period, more than any other country. Given the relative size of Australia's customer base compared to China's, the Commission considers the number of Chinese manufacturers supplying the Australian market would represent only a small portion of all Chinese manufacturers. The Commission also noted from the information provided by the cooperating exporter that they maintain excess production capacity.

The Commission considers that due to the number of Chinese producers supplying the Chinese market, and based on the low cost of raw material inputs available to those producers, which is lower than comparable international benchmarks, there would appear to be a competitive disadvantage in respect of the importation of painted steel strapping into China.

Evidence provided in the May 2020 US International Trade Administration Global Steel Trade Monitor Report also indicates import penetration (as a function of consumption) in steel (which would include the goods) has remained low, at 1.6% in 2018 and 2019.<sup>41</sup>

Accordingly, based on the information before the Commission, albeit limited, on balance it appears that import penetration in the Chinese market for the goods was low in the investigation period, relative to the Australian market.

### **6.4.5 Relationship between price and cost**

#### China

The Commission considers that in the Chinese domestic market, Chinese producers of painted steel strapping operate under market conditions which differ from those of exporters in other countries, including that of the Australian industry. Specifically, the market situation in China reduces costs across all production due to lower raw material costs.

Lower costs for raw materials was found during verification to impact the CTM for both domestic and exported goods equally. During verification, the Commission found that the

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<sup>41</sup> United States International Trade Administration, [Global Steel Trade Monitor, Steel Imports Report: China](#), May 2020.



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cooperating Chinese exporter used the same facilities, raw material inputs and manufacturing processes to manufacture painted steel strapping sold into the Chinese domestic market and that exported to Australia, with raw materials accounting for the majority of the total CTM.<sup>42</sup>

The Commission compared the CTM of painted steel strapping produced for sale on the domestic market by the cooperating exporter against the CTM of painted steel strapping produced for export to the Australian market and observed there was no difference in the CTM between goods produced for domestic consumption and those produced for export to Australia.

The Commission was unable to compare domestic selling prices for the goods across different Chinese manufacturers due to a lack of cooperating responses. Nonetheless, from the evidence before it from the questionnaire responses, the Commission is satisfied the Chinese domestic market for painted steel strapping is highly competitive. As a result of this competitive environment for the goods, the lower raw material costs flowing from the presence of a particular market situation directly affects painted steel strapping prices, such that the prices are lower than they would otherwise had been.

This relationship defines the conditions of competition in China. The effect of the market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between domestic producers selling in the domestic market as it modifies the conditions of competition in a consistent manner for all market participants.

As a consequence, the Commission considers that Chinese producers have little flexibility with respect to price-setting for sales of painted steel strapping in their domestic market.

Due to the lack of data provided by Chinese manufacturers on Australian export prices, the Commission has relied upon import prices available from the ABF import database to undertake its analysis of the relationship between raw material costs and export prices.<sup>43</sup>

The figure below depicts the range of Australian import prices from all Chinese exporters of painted steel strapping during the investigation period.

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<sup>42</sup> See Table 9.

<sup>43</sup> See chapter 5.5 for the Commission treatment of ABF import data.

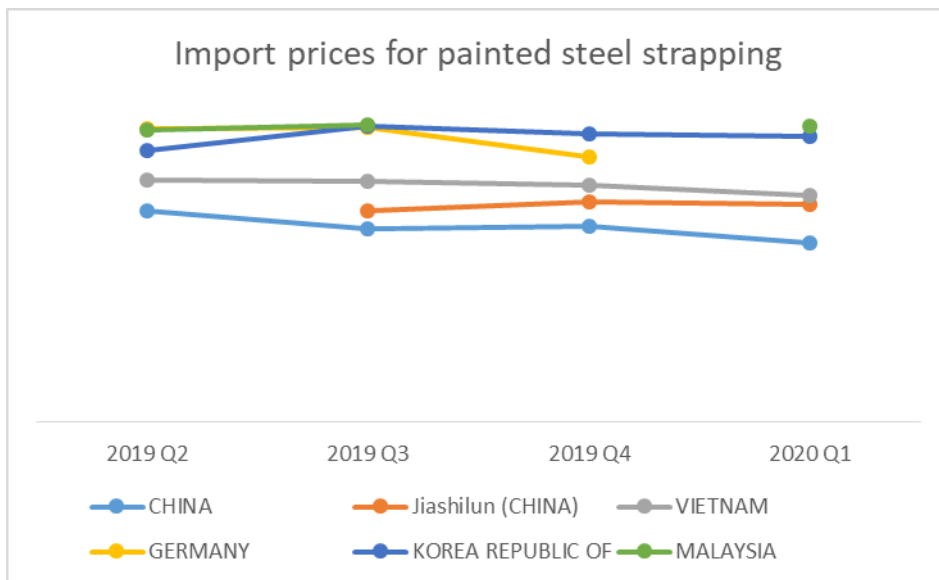
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**Figure 2 – Anonymised Chinese import prices of the goods into Australia, weighted average unit price over the investigation period<sup>44</sup>**

The figure indicates a variability in pricing by Chinese manufacturers in the Australian market.

The Commission has also compared the weighted average FOB Chinese export prices for each exporter as reported in the ABF import database with those from Vietnam, Korea, Germany and Malaysia, who represent the second, third, fourth and fifth largest source of imports of painted steel strapping into Australia. The weighted average FOB export price of the cooperating exporter has also been included in the comparison.



**Figure 3 – FOB import prices for painted steel strapping imported into Australia during the Investigation period<sup>45</sup>**

<sup>44</sup> Confidential Attachment 1 – Australian Market Analysis.

<sup>45</sup> Ibid.

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The Commission observed that the weighted average FOB export prices of the cooperating exporter and for Chinese exporters was lower than those of Germany, Malaysia and Korea in each quarter of the investigation period. The Commission considers that this finding evidences that, in addition to undercutting Australian industry, Chinese manufacturers are able to undercut other export participants in the Australian market due to the distortions in the Chinese raw material market.

Based on the above analysis, the Commission considers that:

- there is a market which is internally competitive between domestic participants in China where no competitive advantage is derived by any individual manufacturer as the reduced production costs resulting from the situation in the market benefits all producers; and
- the Australian market is a competitive market. The Commission considers variability of pricing between Chinese manufacturers in the Australian market is indicative of a competitive advantage enjoyed by Chinese exporters due to the market situation, which allows them to engage in pricing strategies in the Australian market that allow them to achieve either:
  - higher margins than the margins attainable on the sale of the same goods on the domestic market; or
  - increased sales volumes by significantly undercutting other participants in the Australian market; or
  - a combination of higher margins and increased sales volumes resulting from undercutting.

### **6.4.6 Conclusion on the effects of the situation in the market**

The Commission's analysis indicates that the relationship between price and cost and the prevailing conditions of competition in China is different in comparison to the relationship between price and cost and the prevailing conditions of competition in Australia. Specifically, the effect of the market situation in China is a decrease in input costs across all production that results in a lower level of competitive pricing throughout the market in China. This relationship defines the conditions of competition in China. Based on the information before the Commission, on balance, the effect of the market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between market players, being Chinese producers. In other words, the particular market situation modifies the conditions of competition in a consistent manner for the major market participants. The Commission considers this is broadly consistent with the GOC submission that the Chinese market for the goods is highly competitive and that purchases of the goods and of raw materials are made in competitive conditions. However, that competition is limited between domestic market participants in a market which has been distorted due to the particular market situation in the Chinese market.

In Australia, where no market situation or input cost decrease exists, competitive pricing prevails at a higher level. Higher production costs for those participants producing without the benefit of a market situation establishes a higher minimum threshold for competitive prices. Under these circumstances, the effect of the market situation in China on the price of painted steel strapping sold into the Australian market results in competitive advantages and disadvantages between market players.

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Specifically, Chinese exporters enjoy a cost advantage that either manifests as an increased margin at the prevailing level of competitive pricing in the Australian market, a low export price that undercuts the prevailing level of competitive pricing, or a combination whereby the Chinese manufacturer can enjoy a higher margin while still undercutting other market participants. In other words, the effect of the market situation on export price is to modify the conditions of competition in Australia to the benefit of Chinese exporters and, to the extent that benefit manifests as a low price that undercuts the prevailing level of competitive pricing in Australia, to the detriment of all other market participants in that market.

Thus, the relative effect of the market situation on domestic and export prices is different in the relevant markets.

The GOC submitted as part of its RGQ that the influence on markets due to different market factors does not mean that prices in the respective markets cannot be properly compared for determining a dumping margin and that under the opposite view, no proper comparison could ever be undertaken as no two markets are the same. The Commission does not share this view. The Commission considers that, if there is a finding that domestic sales and export sales are not equally impacted by a market situation, such a finding may render domestic sales not suitable for the purposes of proper comparison.

In the present investigation, the Commission considers that the evidence discussed in this chapter indicates that sales in the domestic Chinese market are not suitable for determining a normal value pursuant to section 269TAC(1) because they do not permit a proper comparison with the export price of the goods exported to Australia.

### **6.5 Constructed normal values – China**

#### **6.5.1 Applicable legislation, policy and practice**

Where the Minister is satisfied that normal value cannot be determined under section 269TAC(1), as is the case in this investigation for China, section 269TAC(2)(c) provides that the normal value is:

*... the sum of:*

- (i) such amount as the [Minister] determines to be the cost of production or manufacture of the goods in the country of export; and*
- (ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export—such amounts as the [Minister] determines would be the administrative, selling and general costs associated with the sale and the profit on that sale*

As required by sections 269TAC(5A) and 269TAC(5B), the construction of normal values under section 269TAC(2)(c) must be in accordance with the *Customs (International Obligations) Regulation 2015* (the Regulations).

To determine costs of manufacture or production in relation to constructing normal values, section 43(2) of the Regulations requires that the Minister must work out the cost of

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production or manufacture using the information set out in the exporter or producer's records if:

- an exporter or producer of the goods keeps records relating to the goods that are in accordance with generally accepted accounting principles (GAAP) in the country of export; and
- those records reasonably reflect competitive market costs associated with the production or manufacture of the goods.

It is the Commission's view that, where an exporter's records are otherwise in accordance with GAAP, and are reliable, but the records do not reasonably reflect competitive market costs associated with the production or manufacture of the goods, it is open for the Minister, if practicable, to adjust the records so they reasonably reflect competitive market costs associated with the production or manufacture of the goods in the country of export. In making such adjustments, the Commission considers that the Minister may have regard to all relevant information.

### **6.5.2 Establishing normal values for selected exporters**

The Commission notes that, in accordance with section 269TAC(3A), the Minister is not required to consider working out the normal value of goods under section 269TAC(2)(d) before working out the normal value of goods under section 269TAC(2)(c). Where section 269TAC(1) is not available, the Commission's policy preference, as outlined at chapter 10 of the Manual, is to construct normal values under section 269TAC(2)(c), in the first instance, when cost data of exporters is available.

When considering whether it is preferable to use the price paid or payable for like goods sold by the exporters to a third country, pursuant to section 269TAC(2)(d), the Commission must be satisfied that it is an 'appropriate third country'. The Commission has regard to the following factors, to determine whether any such third country is 'appropriate':<sup>46</sup>

- whether the volume of trade from the country of export to the selected third country is similar to the volume of trade from the country of export to Australia, and
- the nature of the trade in like goods between the country of export and the selected third country is similar to the nature of trade between the country of export and Australia (in considering 'nature of trade' such things as the level of trade in a third country may be relevant).

In this case, the Commission considers that the information provided by the exporters in their REQs does not provide a precise or granular level of detail to determine whether a third country would be appropriate and to undertake the calculations required to determine a normal value.

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<sup>46</sup> The Manual, page 51.

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Consequently, the Commission has constructed normal values under section 269TAC(2)(c), and has done so in accordance with sections 43, 44 and 45 of the Regulations, relevant aspects of which are outlined below.

### **6.5.3 Raw material cost adjustment – China**

The Commission has considered all relevant information, including raw material purchases by the cooperative Chinese exporter, and considers it appropriate to use the exporter's records, but only after an adjustment is made to the records relating to the raw material costs, in this case, CRC. Such an adjustment ensures that the exporter's records reflect "competitive market costs", that is, the cost of production in China absent the market situation. Consistent with this approach, the Commission has replaced the CRC input costs for the Chinese exporter on the basis they did not reasonably reflect competitive market costs. In doing so, the Commission has considered the individual circumstances of the exporter's purchases of CRC and, to the greatest extent possible, has ensured that the exporter's adjusted records reasonably reflect costs that would be incurred in China without the distortion resulting from the influence of the GOC.

The Commission has examined in chapter A3.1 of Appendix 1 the degree to which CRC prices in the Chinese domestic market have been distorted as a result of GOC influence. The Commission considers that the difference in price between the MEPS CRC prices for Korea and Taiwan and the MEPS CRC price for China is representative of the level of distortion of Chinese CRC prices, as from previous cases the Commission considers that normal competitive market conditions prevail in the Korean and Taiwanese domestic markets for HRC, and therefore CRC, and that purchases in these markets are not influenced by prices in China.<sup>47</sup>

### **6.5.4 Calculation of the raw material cost adjustment**

The CRC costs have been determined by comparing the competitive benchmark cost to the exporter's actual costs, and applying the resulting variation as an adjustment to the exporter's records.

## **6.6 Exporters**

### **6.6.1 Exporter questionnaires**

At the commencement of the investigation, the Commission contacted a number of entities it had identified as possible exporters of the goods, based on information in the ABF import database and from Signode Australia's application and invited them to complete an exporter questionnaire.

The table below sets out those entities from whom the Commission received REQs that were assessed as not containing any deficiencies.

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<sup>47</sup> See SEF 529 available on the Commission's website.

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Country	Name
China	Qinhuangdao Jiashilun Packaging Materials Co., Ltd (Jiashilun)
Vietnam	Sam Hwan Vina Co. Ltd (Sam Hwan)

**Table 10 – Exporter questionnaire responses**

### 6.6.2 Cooperative exporters

Section 269T(1) provides that, in relation to a dumping investigation, an exporter is a ‘cooperative exporter’ if the exporter’s exports were examined as part of the investigation and the exporter was not an ‘uncooperative exporter’.

Jiashilun from China and Sam Hwan from Vietnam were the only cooperative exporters in the investigation.

### 6.6.3 Uncooperative exporters

Section 269T(1) provides that an exporter is an “uncooperative exporter” in relation to an dumping duty investigation where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within a timeframe specified or prescribed for submitting any kind of response relating to the case (legislated period).

The Commissioner considered the Customs Direction and determined that any exporter which did not do any of the following is an uncooperative exporter for the purposes of this investigation:

- provide a sufficient REQ to the Commission; or
- request a longer period to provide a response within the time specified in ADN 2020/050, being 3 July 2020<sup>48</sup>; or
- address requests for further information where REQs were given to the Commission.<sup>49</sup>

#### Lingyun Steel Strapping Limited

Lingyun Steel Strapping Limited (Lingyun Steel) from China provided information to the Commission within the legislated period. It was considered by the Commission that this response contained extensive deficiencies for the following reasons:

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<sup>48</sup> This is the relevant legislated period.

<sup>49</sup> Requests for further information are contained in deficiency letters.

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- No response was provided to the questions in the exporter questionnaire. The exporter questionnaire spreadsheets were partially completed, but did not contain data on sales to Australia, sales in China, sales to third countries, CTM the goods, selling, general and administrative expenses (SG&A) or raw material purchases;
- Other information provided consisted of photographs of documentation which had not been translated into English and had no explanation as to their relevance to the investigation.

In the opinion of the Commission, the deficiencies in the response from Lingyun could not be quickly or easily rectified in a further response without significantly impeding the conduct of the investigation in a timely and efficient manner. The Commissioner informed Lingyun Steel of its decision on 31 July 2020 that it was to be considered an uncooperative and non-cooperative exporter pursuant to section 269T(1) and 269TAACA. This decision was acknowledged by Lingyun but no further submissions were received nor was any request made by Lingyun to provide a supplementary REQ.

### 6.7 Dumping assessment – China

#### 6.7.1 Jiashilun

##### Verification

The Commission conducted a remote verification of Jiashilun's REQ.

The Commission is satisfied that Jiashilun is the producer of the goods. The Commission is further satisfied that the information provided by Jiashilun is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.<sup>50</sup>

##### Export price

The Commission considers Jiashilun to be the exporter of the goods as Jiashilun:

- is the manufacturer of the goods;
- is named on the commercial invoice as the supplier;
- is named as consignor on the bill of lading;
- arranges and pays for the inland transport to the port of export;
- arranges and pays for the port handling charges at the port of export; and
- arranges and pays for the ocean freight and marine insurance.

The Commission is satisfied that for all Australian export sales during the period that Jiashilun was the exporter of the goods.

In respect of Jiashilun's Australian sales of the goods to its unrelated customers during the period, the Commission found no evidence that:

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<sup>50</sup> EPR 553, No. 015.



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- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all export sales made by Jiashilun to its Australian customers, all of whom were unrelated, during the period were ‘arms length’ transactions.

In respect of Australian sales of the goods by Jiashilun, the Commission has determined an export price under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

### Normal value

The Commission is satisfied that, due to a situation in the domestic market for the goods in China, sales in that market are not suitable for use in determining a normal value under section 269TAC(1).

The Commission has therefore calculated a normal value under section 269TAC(2)(c) using the sum of:

- the CTM that reasonably reflects competitive market costs in accordance with section 43(2) of the Regulations;
- domestic SG&A on the assumption that the goods, instead of being exported, were sold domestically based on the company’s records in accordance with section 44(2) of the Regulations; and
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT<sup>51</sup> in accordance with section 45(2) of the Regulations.

### *CTM reasonably reflecting competitive market costs*

The Commission has assessed the raw material input costs in the CTM for Jiashilun. While the Commission established during verification that its records relating to the goods have been kept in accordance with the relevant GAAP and reasonably reflect the costs associated with the production and sale of the goods, the Commission was not satisfied that its costs reasonably reflect competitive market costs associated with the production of like goods, due to the influence of the GOC in the domestic Chinese market for raw materials, in this case CRC. Specifically, the Commission considers that CRC costs in

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<sup>51</sup> Section 269TAAD states that domestic sales of like goods are not in the OCOT if ‘arms length’ transactions are unprofitable in substantial quantities over an extended period and unlikely to be recoverable within a reasonable period. For the purposes of this investigation the “extended period” and “reasonable period” are considered to be the investigation period.

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China, which make up a major proportion of the total costs of production of the goods, are distorted by GOC influence and do not reasonably reflect competitive market costs associated with the production or manufacture of the goods in terms of section 43(2)(b)(ii) of the Regulations. Accordingly, the Commission considers it appropriate that CRC costs relating to the costs of production in Jiashilun's records be adjusted to reflect competitive market costs as detailed in chapter 6.5 above.

### Adjustments

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Export port handling charges	Add an amount for port charges
Export bank charges	Add an amount for export bank charges
Non-refundable VAT	Add an amount for non-refundable VAT

**Table 11: Summary of adjustments – Jiashilun**

### Dumping margin

The dumping margin in respect of the goods exported to Australia by Jiashilun for the investigation period is **negative 6.2%**.

The Commission's calculations are included at **Confidential Attachments 4 to 7**.

### **6.7.2 Uncooperative exporters – China**

As detailed in chapter 6.6.3, the Commission considers all exporters of the goods from China, other than Jiashilun, are uncooperative exporters for the purposes of this investigation.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

### Export prices

Pursuant to section 269TACAB(1)(d), the Commission has determined an export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information.

The Commission has used the lowest weighted average FOB export price for the investigation period of Chinese exporters who exported to Australia during the

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investigation period, as reported in the ABF import database.<sup>52</sup> The weighted average export price is calculated using all exports of the goods by that exporter during the investigation period.

The Commission has chosen the lowest export price on the basis that the lowest weighted average export price demonstrates a price at which an uncooperative exporter may export goods to Australia, based on the information before the Commission. The Commission considers that the ABF import database is a reliable source for determining an export price for the goods to China as the goods are generally classified to only one tariff code within the database, as discussed in chapter 3.3.2. This limits the likelihood of the ABF import data including imports of products which are not the goods, particularly after the data has been cleansed, as discussed in chapter 5.5.

### Normal value

Pursuant to section 269TACAB(1)(e), the Commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the normal value established for the sole cooperating Chinese exporter in the investigation period, less favourable adjustments.

The Commission has chosen the normal value of the sole cooperating exporter on the basis that:

- the Commission does not have specific information relating to the uncooperative exporters, relevant to the calculation of the normal value; and
- the normal value of the cooperating exporter, less favourable adjustments, demonstrates a price at which an uncooperative exporter may sell the goods in the domestic Chinese market, based on the information before the Commission.

### Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative exporters for the investigation period is **11.5%**.

The Commission's calculations are included in **Confidential Attachment 12**.

### **6.7.3 Summary of dumping margins**

The Commission has assessed that the goods exported to Australia from China during the investigation period by:

- Jiashilun were not dumped; and
- Uncooperative exporters from China were dumped at a margin of 11.5%.

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<sup>52</sup> See chapter 5.5.2 for further detail on the method used by the Commission for removing outliers from the ABF import database data.

#### **6.7.4 Volume of dumped imports**

Pursuant to section 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that have been or may be dumped is a negligible volume. Section 269TDA(4) defines a negligible volume as less than 3% of the total volume of goods imported into Australia over the investigation period, where section 269TDA(5) does not apply, which it does not in this investigation.

Using the ABF import database and having regard to the information collected and verified during the investigation, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of goods that have been exported from China and dumped (which excludes goods imported from Jiashilun) was greater than 3% of the total import volume, and is therefore not negligible.

The Commission's calculations are at **Confidential Attachment 1**.

#### **6.7.5 Level of dumping**

Section 269TDA(1)(b)(i) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if satisfied that there has been no dumping by the exporter of any of those goods.

The Commission is satisfied that there has been no dumping of the goods during the investigation period by Jiashilun. Accordingly, the Commissioner proposes to terminate the dumping investigation as it relates to Jiashilun, pursuant to section 269TDA(1)(b)(i).

### **6.8 Dumping assessment – Vietnam**

#### **6.8.1 Sam Hwan**

##### Verification

The Commission conducted a remote verification of Sam Hwan's REQ.

The Commission is satisfied that Sam Hwan is the producer of the goods and like goods. The Commission is further satisfied that the information provided by Sam Hwan is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

A report covering the verification findings is available on the public record.<sup>53</sup>

##### Export price

The Commission considers Sam Hwan to be the exporter of the goods as Sam Hwan is:

- the manufacturer of the goods;

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<sup>53</sup> EPR 553, No. 014.

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- named on the commercial invoice as the supplier;
- named as consignor on the bill of lading;
- arranges and pays for the inland transport to the port of export;
- arranges and pays for the port handling charges at the port of export;
- arranges and pays for the ocean freight and marine insurance.

The Commission is satisfied that for all Australian export sales during the investigation period, Sam Hwan was the exporter of the goods.

Sam Hwan did not have export sales of the goods to any related customers in Australia during the period.

In respect of Sam Hwan's Australian sales of the goods to its unrelated customers during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all export sales made by Sam Hwan to its Australian customers during the period were 'arms length' transactions.

In respect of Australian sales of the goods by Sam Hwan, the Commission has determined an export price under section 269TAB(1)(a), being the price paid by the importer to the exporter, less transport and other costs arising after exportation.

### Normal value

In respect of Sam Hwan's domestic sales of like goods to its related customer during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.<sup>54</sup>

However, the Commission found evidence that the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller as:

- Sam Hwan is partly owned by its related customer; and

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<sup>54</sup> Section 269TAAD refers.

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- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.<sup>55</sup>

The Commission therefore considers that domestic sales made by Sam Hwan to its related customers during the period were not 'arms length' transactions, pursuant to section 269TAA(1)(b) and the sales have been removed from the domestic sales listing.

In respect of Sam Hwan's domestic sales of like goods to its unrelated customers during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.<sup>56</sup>

The Commission therefore considers that all domestic sales made by Sam Hwan to its unrelated customers during the period were 'arms length' transactions.

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export. An exporter's domestic sales of like goods are taken to be in a low volume under section 269TAC(14) where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

Using information obtained during the verification of Sam Hwan, the Commission has assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of domestic sales was 5% or greater and therefore was not a low volume.

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the Commission considers the volume of sales of each exported MCC on the domestic market. Where the volume of domestic sales of an exported model is less than 5% of the volume exported, the Commission will consider whether a proper comparison can be made at the MCC level. In these situations, the Commission may consider whether a surrogate domestic model should be used to calculate the normal value for the exported model. This is detailed in the table below.

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

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Export MCC	Comment	Surrogate MCC
C1-W3-T1-B2-L	Volume of domestic sales model is less than 5% of the exported volume	C1-W3-T1-B2-M has been used as a surrogate due to the similarity between models

**Table 12 – Surrogate export model**

Adjustments

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). The Commission considers these adjustments to be necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic commission	Deduct an amount for domestic inland commission
Export inland transport	Add an amount for export inland transport
Export port and handling charges	Add an amount for port charges
Export commission	Add an amount for export commission
Export bank charges	Add an amount for export bank charges
Export credit terms	Add an amount for export credit terms

**Table 13 – Summary of adjustments – Sam Hwan**

Dumping margin

The dumping margin in respect of the goods exported to Australia by Sam Hwan for the investigation period is **1.7%**.

The Commission’s calculations are included at **Confidential Attachments 8 to 11**.

**6.8.2 Uncooperative exporters – Vietnam**

As detailed in chapter 6.6.3, the Commission considers all exporters of the goods from Vietnam that did not provide a response to the exporter questionnaire, did not request a longer period to provide a response within the legislated period or did not address requests for further information where an REQ has been provided, are uncooperative exporters for the purposes of this investigation.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

Export prices

Pursuant to section 269TACAB(1)(d), the Commission has determined an export price for the uncooperative exporters pursuant to section 269TAB(3), having regard to all relevant information.

The Commission has used the lowest weighted average FOB export price for the investigation period of Vietnamese exporters who exported to Australia during the

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investigation period. The weighted average export price is calculated using verified data of exports of the goods by that exporter during the investigation period.

The Commission has chosen the lowest export price on the basis that the lowest weighted average export price demonstrates a price at which an uncooperative exporter may export like goods to Australia, based on the information before the Commission.

### Normal value

Pursuant to section 269TACAB(1)(e), the Commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the normal value established for the sole cooperating Vietnamese exporter in the investigation period, less favourable adjustments.

The Commission has chosen the normal value of the sole cooperating exporter on the basis that:

- the Commission does not have specific information relating to the uncooperative exporters, relevant to the calculation of the normal value; and
- the normal value of the cooperating exporter, less favourable adjustments, demonstrates a price at which an uncooperative exporter may sell the goods in the domestic Vietnamese market, based on the information before the Commission.

### Dumping margin

The dumping margin in respect of the goods exported to Australia by uncooperative exporters for the investigation period is **4.3%**.

The Commission's calculations are included in **Confidential Attachment 12**.

### **6.8.3 Summary of dumping margins**

The Commission has assessed that the goods exported to Australia from Vietnam during the investigation period by:

- Sam Hwan were dumped at a margin of 1.7%; and
- Uncooperative exporters were dumped at a margin of 4.3%.

### **6.8.4 Volume of dumped imports**

As discussed in chapter 6.7.4 the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume.

Using the ABF import database and having regard to the information collected and verified during the investigation, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of allegedly dumped goods from Vietnam was greater than 3% of the total import volume, and is therefore not negligible.



### **6.8.5 Level of dumping**

The Commission's calculations are at **Confidential Attachment 1**.

Section 269TDA(1)(b)(ii) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if satisfied that there has been dumping by the exporter of some or all of those goods, but the dumping margin for the exporter, or each such dumping margin, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2%.

The Commission is satisfied that there has been dumping of the goods by Sam Hwan, but at levels below 2%. Accordingly, the Commissioner proposes to terminate the dumping investigation as it relates to Sam Hwan, pursuant to section 269TDA(1)(b)(ii).

## 7 SUBSIDY INVESTIGATION – CHINA

### 7.1 Preliminary finding

The Commission has found that countervailable subsidies have been received in respect of the goods exported to Australia from China during the investigation period.

The Commission has found that the volume of subsidised goods exported to Australia from China during the investigation period was not negligible.

The subsidy margin determined by the Commission in respect of Jiashilun is negligible. However, the subsidy margin for all other entities is 42.59%.

Accordingly, the Commissioner is satisfied that:

- it is necessary to terminate the subsidy investigation under section 269TDA(2)(b)(ii) in respect of the cooperating exporter, Jiashilun; and
- a countervailable subsidy has been received by non-cooperative Chinese entities in respect of the goods exported to Australia, at a margin of 42.59%.

### 7.2 Relevant legislation

Section 269T(1) defines ‘subsidy’ as follows:

**subsidy**, in respect of goods exported to Australia, means:

(a) a financial contribution:

- (i) by a government of the country of export or country of origin of the goods; or
- (ii) by a public body of that country or a public body of which that government is a member; or
- (iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that involves:

- (iv) a direct transfer of funds from that government or body; or
  - (v) the acceptance of liabilities, whether actual or potential, by that government or body; or
  - (vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or
  - (vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or
  - (viii) the purchase by that government or body of goods or services; or
- (b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;

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if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.<sup>57</sup>

Section 269TACC defines a 'countervailable subsidy' as follows:

- (1) For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.
- (2) Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:
  - (a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or
  - (b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or
  - (c) if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or
  - (d) if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.
- (3) Subject to subsection (4), a subsidy is not specific if:
  - (a) eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and
  - (b) eligibility for the subsidy is automatic; and
  - (c) those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and
  - (d) those criteria or conditions are strictly adhered to in the administration of the subsidy.
- (4) The Minister may, having regard to:
  - (a) the fact that the subsidy program benefits a limited number of particular enterprises; or
  - (b) the fact that the subsidy program predominantly benefits particular enterprises; or
  - (c) the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or
  - (d) the manner in which a discretion to grant access to the subsidy has been exercised;determine that the subsidy is specific.
- (5) In making a determination under subsection (4), the Minister must take account of:
  - (a) the extent of diversification of economic activities within the jurisdiction of the subsidising authority; and
  - (b) the length of time during which the subsidy program has been in operation.

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<sup>57</sup> Section 269TACC sets out the steps for working out whether a financial contribution or income or price support confers a benefit.

Section 269TACD provides that if the Minister is satisfied that a countervailable subsidy has been received in respect of the goods, the Minister must, if the amount of the subsidy is not quantified by reference to a unit of the goods, work out how much of the subsidy is properly attributable to each unit of the goods.

### **7.3 Investigated programs**

The applicant alleged the existence of a total of 45 programs in relation to exports of painted steel strapping from China, based on previous findings made by the Commission in respect of subsidies received for other products manufactured in China from HRC, specifically hollow structural sections (HSS). The applicant argued that such subsidies would be applicable to painted steel strapping as, like HSS, it is manufactured from HRC, and both HSS and HRC have been the subject of previous findings in relation to countervailable subsidies from China. Accordingly, the applicant considers that painted steel strapping from China would be in receipt of the same benefits.

In respect of subsidies for HRC, the Manual provides that:

*“Upstream” subsidy refers to a subsidy (non-export) paid to an input product such as raw material or a manufactured product used in the production of the goods in question, and countervailing action may be taken where the benefit received by the upstream recipient of the subsidy passed through, in whole or in part, to the downstream purchaser.*

*Where it is established that the price of the input product reflects the benefit of the subsidy, in whole or in part, received by the upstream supplier, then the downstream purchaser is taken to have received a subsidy.<sup>58</sup>*

Consistent with the statement above, the Commission is satisfied that subsidies for HRC or CRC may be applicable to painted steel strapping, with such subsidies being “upstream subsidies” for the goods. As discussed in chapter 6.3.4, the Commission considers that CRC costs are closely related to the costs of HRC, and would be impacted by any subsidies on HRC.

After considering the information before the Commission on the identified subsidies, the Commission is also satisfied that the subsidies may also be applicable to the goods, as HSS and the goods are in similar industries.

Information on a further three programs not previously identified was provided by the GOC and the cooperating exporter in its REQ. This brought the total of investigated programs to 48.

The Commission has investigated each of the 48 alleged subsidy programs.

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<sup>58</sup> The Manual, chapter 19.

## 7.4 Summary of programs

The Commission has set out each program and its finding in respect of each program in the table below.

Program Number <sup>59</sup>	Program name	Program Type	Countervailable subsidy received? (Yes/No)
<b>Programs included in questionnaires</b>			
1	Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones	Tax	Yes
2	One-time Awards to Enterprises Whose Products Qualify for ‘Well-Known Trademarks of China’ and ‘Famous Brands of China’	Grant	Yes
5	Matching Funds for International Market Development for Small and Medium Enterprises	Grant	Yes
6	Superstar Enterprise Grant	Grant	Yes
7	Research & Development (R&D) Assistance Grant	Grant	Yes
8	Patent Award of Guangdong Province	Grant	Yes
10	Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years	Tax	Yes
11	Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)	Tax	Yes
12	Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai	Tax	Yes
13	Preferential Tax Policies in the Western Regions	Tax	Yes
14	Tariff and VAT Exemptions on Imported Materials and Equipment	Tax	Yes
15	Innovative Experimental Enterprise Grant	Grant	Yes
16	Special Support Fund for Non State-Owned Enterprises	Grant	Yes
17	Venture Investment Fund of Hi-Tech Industry	Grant	Yes
18	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	Grant	Yes

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<sup>59</sup> The Commission has maintained the Program Number used in the application.

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<b>Program Number<sup>59</sup></b>	<b>Program name</b>	<b>Program Type</b>	<b>Countervailable subsidy received? (Yes/No)</b>
19	Grant for key enterprises in equipment manufacturing industry of Zhongshan	Grant	Yes
20	Hot rolled steel provided by government at less than fair market value	Less than adequate remuneration (LTAR)	No
21	Water Conservancy Fund Deduction	Grant	Yes
22	Wuxing District Freight Assistance	Grant	Yes
23	Huzhou City Public Listing Grant	Grant	Yes
27	Huzhou City Quality Award	Grant	Yes
28	Huzhou Industry Enterprise Transformation & Upgrade Development Fund	Grant	Yes
29	Land Use Tax Deduction	Tax	Yes
30	Wuxing District Public Listing Grant	Grant	Yes
31	Anti-dumping Respondent Assistance	Grant	No
32	Technology Project Assistance	Grant	Yes
34	Balidian Town Public Listing Award	Grant	Yes
35	Preferential Tax Policies for High and New Technology Enterprises	Tax	Yes
36	Local Tax Bureau Refund	Tax	Yes
37	Return of Farmland Use Tax	Tax	Yes
38	Return of Land Transfer Fee	Tax	Yes
39	Return of Land Transfer Fee From Shiyou	Tax	Yes
40	Dining lampblack governance subsidy of Jinghai County Environmental Protection Bureau	Grant	Yes
41	Discount interest fund for technological innovation	Grant	Yes
42	Energy conservation and emission reduction special fund project in 2015	Grant	Yes
43	Enterprise famous brand reward of Fengnan Finance Bureau	Grant	Yes
44	Government subsidy for construction	Grant	Yes
45	Infrastructure Construction Costs Of Road In Front Of No.5 Factory	Grant	Yes
46	New Type Entrepreneur Cultivation Engineering Training Fee Of Jinghai County Science And Technology Commission	Grant	Yes
47	Subsidy for Coal-Fired Boiler of Fengnan Subtreasury	Grant	Yes
48	Subsidy for Coal-Fired Boiler Rectification	Grant	Yes
49	Subsidy for District Level Technological Project	Grant	Yes

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Program Number <sup>59</sup>	Program name	Program Type	Countervailable subsidy received? (Yes/No)
50	Subsidy For Pollution Control Of Fengnan Environmental Protection Bureau	Grant	Yes
51	Subsidy from Science and Technology Bureau of Jinghai County	Grant	Yes
52	Subsidy of Environment Bureau transferred from Shiyou	Grant	Yes
Further Identified Programs			
553-1	Income tax relief for small low-profit enterprises	Tax	No
553-2	Special fund for industrial transformation and upgrading in 2019	Grant	Yes
553-3	Exemption and reduction of social insurance payments for enterprises during the epidemic period	Grant	Yes

**Table 14 Investigated subsidy programs – China**

The Commission’s findings in relation to each program investigated are outlined in **Non-confidential Appendix C**.

## **7.5 Information considered by the Commission**

### **7.5.1 Information provided by exporters**

The Commission has relied upon information provided by the cooperating exporter in assessing the alleged subsidy programs. This included information provided by the cooperating exporter in the REQ as well as information provided during verification.

### **7.5.2 Information provided by the Government of China**

In accordance with section 269TB(2C), the Commission invited the GOC for consultations during the consideration phase of the investigation on the claims made by the applicant in relation to countervailable subsidies.

The Commission sent a questionnaire to the GOC upon initiation of this investigation, which among other things included questions relating to each of the alleged subsidy programs identified in the application. The GOC’s RGQ was provided to the Commission on 15 August 2020<sup>60</sup> and has been considered by the Commission as part of this investigation.

### **7.5.3 Other information considered as part of this assessment**

The Commission also considered as part of this assessment:

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<sup>60</sup> EPR 553, Item 10.

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- information provided in the application;
- submissions received in relation to subsidies provided to Chinese exporters;<sup>61</sup>
- information provided to the WTO by the GOC in July 2019 in its notification in the *New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement)*;<sup>62</sup> and
- previous investigations by the Commission into subsidies provided to Chinese exporters.

### 7.6 Subsidy Assessment – Jiashilun

#### 7.6.1 Program 553-1 – Income tax relief for small low-profit enterprises

During verification, it was found Jiashilun had received a subsidy under this program. The Commission has further examined this program and determined that this program is not specific and therefore not countervailable. See **Non-confidential Appendix C**.

#### 7.6.2 Program 553-2 – Special fund for industrial transformation and upgrading in 2019

During verification, it was found Jiashilun had received a subsidy under this program. The Commission has further examined this program and determined this program is specific as it is available only to entities located in the Qinhuangdao region.

In terms of working out the benefit received during the investigation period, with respect to the findings in relation to this program discussed in **Non-confidential Appendix C**, the Commission has determined the benefit received under this program is countervailable.

The amount received under this program has been attributed to all of the company's sales. It was then allocated to the goods based on the export revenue over the investigation period.

#### 7.6.3 Program 553-3 – Exemption and reduction of social insurance payments for enterprises during the epidemic period

During verification, it was found Jiashilun had received a subsidy under this program. The Commission has further examined this program and determined this program is specific and therefore countervailable, as it is considered this program is administered at the discretion of provincial authorities leading to discrepancies in the eligibility and receipt of any benefits between regions. The Commission has not been presented with evidence that eligibility for this is established by objective and verifiable criteria. See **Non-confidential Appendix C**.

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<sup>61</sup> EPR 553, Item 12 – Signode Australia Exporter Briefing

<sup>62</sup> Available on the WTO website at [https://www.wto.org/english/tratop\\_e/scm\\_e/scm\\_e.htm](https://www.wto.org/english/tratop_e/scm_e/scm_e.htm)



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The amount received under this program has been attributed to all of the company's sales. It was then allocated to the goods based on the export revenue over the investigation period.

### 7.6.4 Subsidy margin

Based on the information available to the Commission, the Commission has calculated a subsidy margin for Jiashilun of **0.2%**.

The Commission's countervailable subsidy calculations for Jiashilun are contained in **Confidential Attachment 13**.<sup>63</sup>

## 7.7 Subsidy Assessment – Non-cooperative entities

Section 269TAACA(1) provides that, in determining whether a countervailable subsidy has been received in respect of particular goods, or in determining the amount of a countervailable subsidy in respect of particular goods, the Commissioner may act on the basis of all the facts available and may make such assumptions as the Commissioner considers reasonable, in circumstances where an entity:<sup>64</sup>

- has not given the Commissioner information the Commissioner considers to be relevant to the investigation, review or inquiry within a period the Commissioner considers to be reasonable; or
- has significantly impeded the investigation, review or inquiry.

Such entities are referred to in this report as “non-cooperative entities”.

### 7.7.1 Program 20 – Hot rolled steel provided by government at less than fair market value

The Commission has determined that no subsidy has been received by Chinese non-cooperative entities under this program as no benefit has been received during the investigation period.

The amount of benefit received where there has been a provision of goods or services by the government is the difference between the price paid by enterprises for the government provided goods or service, and adequate remuneration for the product or service in relation to prevailing market conditions.

Section 269TACC(4) provides that the adequacy of remuneration in relation to goods or services is to be determined having regard to prevailing market conditions in the country where those goods or services are provided or purchased.

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<sup>63</sup> This attachment has been kept confidential as it contains commercially sensitive information relating to exporters.

<sup>64</sup> Entities covered by section 269TAACA(1) are described in section 269TAACA(2).

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The Commission considers that the prevailing market conditions for HRC is the Chinese domestic market for HRC, notwithstanding that the Commission has found that there is a market situation in respect of HRC within the domestic Chinese market.

To determine the adequacy of remuneration, the Commission has compared data for purchases of HRC in China from private companies against purchases from SOEs, consistent with the approach outlined in Chapter 17 of the Manual. The Commission found that prices offered to Jiashilun by SOEs were higher than prices offered by private companies. From this, the Commission considers that there is insufficient evidence that a countervailable benefit was conferred under this program.

See **Non-confidential Appendix C**.

### **7.7.2 Lingyun Steel**

As discussed in chapter 6.6.3, the Commission considered that the REQ provided by Lingyun Steel contained extensive deficiencies which in the opinion of the Commission could not be quickly or easily rectified in a further response without significantly impeding the conduct of the investigation in a timely and efficient manner. The information in the REQ was considered not relevant to the countervailing investigation. No other relevant information was provided by Lingyun Steel. Accordingly, it was found to be a non-cooperative entity pursuant to section 269TAACA.

### **7.7.3 All other Chinese entities**

The subsidy margin for all other entities, being those entities not considered in this investigation to be cooperating exporters, is determined, pursuant to section 269TAACA, on the basis of all facts available and having regard to reasonable assumptions.

In determining the countervailable subsidies for all other entities, the Commissioner has made such assumptions as considered reasonable in determining whether a countervailable subsidy has been received in respect of the goods and in determining the amount of countervailable subsidy for all other entities.

The Commission has assumed that all other entities benefited from non-regional countervailable subsidies and the highest region-specific subsidy. The Commission considers that the approach taken avoids double-count of similar programs between regions.

The subsidy margin for each program is the higher of:

- the margins applicable to each program based on previous findings made by the Commission in respect of subsidies received for other products manufactured in China from HRC, consistent with the approach taken in the application<sup>65</sup>; and
- the margins calculated for the cooperating exporter as part of this investigation.

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<sup>65</sup> Review 419 – Hollow structural sections from China, Korea, Malaysia, Taiwan and Review 529 - Hollow structural sections from China, Korea, Malaysia, Taiwan, Thailand

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The subsidy margins for each program were summed to obtain the total subsidy margin.

Based on the information available to the Commission, the Commission has calculated a subsidy margin for all other entities of **42.6%**.

The Commission’s countervailable subsidy calculations for all other entities are contained in **Confidential Attachment 14**.<sup>66</sup>

## 7.8 Summary of subsidy margins

The table below summarises what programs have been found countervailable and the corresponding subsidy margins for each exporter.

Exporter	Programs	Subsidy margin
Jiashilun	553-2 – Special fund for industrial transformation and upgrading in 2019 553-3 – Exemption and reduction of social insurance payments for enterprises during the epidemic period	0.2%
All other entities	Program 1 – Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones Program 2 – One-time Awards to Enterprises Whose Products Qualify for ‘Well-Known Trademarks of China’ and ‘Famous Brands of China’ Program 5 – Matching Funds for International Market Development for Small and Medium Enterprises Program 6 – Superstar Enterprise Grant Program 7 – Research & Development (R&D) Assistance Grant Program 8 – Patent Award of Guangdong Province Program 10 – Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years Program 14 – Tariff and VAT Exemptions on Imported Materials and Equipments Program 15 – Innovative Experimental Enterprise Grant Program 16 – Special Support Fund for Non State-Owned Enterprises Program 17 – Venture Investment Fund of Hi-Tech Industry Program 18 – Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment Program 19 – Grant for key enterprises in equipment manufacturing industry of Zhongshan	42.6%

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<sup>66</sup> This attachment has been kept confidential as it contains commercially sensitive information relating to exporters.

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Exporter	Programs	Subsidy margin
	Program 21 – Water Conservancy Fund Deduction Program 29 – Land Use Tax Deduction Program 32 – Technology Project Assistance Program 35 – Preferential Tax Policies for High and New Technology Enterprises Program 36 – Local Tax Bureau Refund Program 37 – Return of Farmland Use Tax Program 38 – Return of Land Transfer Fee Program 39 – Return of Land Transfer Fee From Shiyou Program 41 – Discount interest fund for technological innovation Program 42 – Energy conservation and emission reduction special fund project in 2015 Program 44 – Government subsidy for construction Program 45 – Infrastructure Construction Costs Of Road In Front Of No.5 Factory Program 48 – Subsidy for Coal-Fired Boiler Rectification Program 49 – Subsidy for District Level Technological Project Program 553-3 Exemption and reduction of social insurance payments for enterprises during the epidemic period	

**Table 15 - Countervailable subsidies and subsidy margins**

## 7.9 Volume of subsidised imports

Section 269TDA(7) provides that the Commissioner must terminate a countervailing investigation, in so far as it relates to a country, if satisfied that the total volume of goods that has been, or may have been, exported to Australia during a reasonable examination period and in respect of which a countervailable subsidy has been, or may be, received, is negligible.

Pursuant to section 269TDA(8), a negligible volume for China is a volume less than 4% of the total volume of goods imported into Australia over a reasonable examination period.<sup>67</sup>

Using the ABF import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of goods exported to Australia from China during the investigation period. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of subsidised goods from China was greater than 4% of the total Australian import volume and is therefore not negligible.<sup>68</sup>

<sup>67</sup> China is classed as a Developing Country under Part 4, Division 1 of the *Customs Tariff Regulations 2004*.

<sup>68</sup> Confidential Attachment 14, worksheet “All other entity import volume”.

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Accordingly, the Commissioner does not propose to terminate the subsidy investigation under section 269TDA(7).

### 7.10 Level of subsidisation

Section 269TDA(2) provides that the Commissioner must terminate a countervailing investigation, in so far as it relates to an exporter of the goods, if satisfied either that no countervailable subsidy was received in respect of the goods, or if a subsidy was received, the level of the subsidy did not at any time during the investigation period exceed a negligible level.

Pursuant to section 269TDA(16)(b), a countervailable subsidy received in respect of goods exported to Australia from China is negligible if, when expressed as a percentage of the export price of the goods, the level of the subsidy is not more than 2%.<sup>69</sup>

Based on its investigation into countervailable subsidies provided to Chinese exporters of the goods to Australia, the Commission is satisfied that the total level of countervailable subsidies, when expressed as a percentage of the export price of the goods:

- never, at any time during the investigation period, exceeded 2% for Jiashilun and is therefore negligible; and
- for all other entities, exceeded 2% throughout the investigation period.

Accordingly, the Commissioner is satisfied:

- it is necessary to terminate the countervailable subsidy investigation under section 269TDA(2) in respect of Jiashilun; and
- a countervailable subsidy has been received by non-cooperative Chinese entities in respect of the goods exported to Australia, at a margin of 42.6%.

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<sup>69</sup> China is classed as a Developing Country under Part 4, Division 1 of the *Customs Tariff Regulations 2004*.

## 8 ECONOMIC CONDITION OF THE INDUSTRY

### 8.1 Preliminary finding

Based on an analysis of the information contained in Signode Australia's application and information obtained during Australian industry verification, the Commission considers that the Australian industry experienced a deterioration in its economic performance during the investigation period through injury in the form of:

- loss of sales volume;
- price suppression;
- loss of profit;
- reduced profitability;
- reduced revenue;
- a decline in capital investment;
- a decline in return on investment; and
- reduced capacity utilisation.

### 8.2 Approach to injury analysis

The Commission considers that the Australian industry is comprised solely of Signode Australia. The injury analysis detailed in this chapter is therefore based on verified financial information submitted by Signode Australia.

The injury analysis period being considered for the purpose of this investigation is from 1 April 2016.

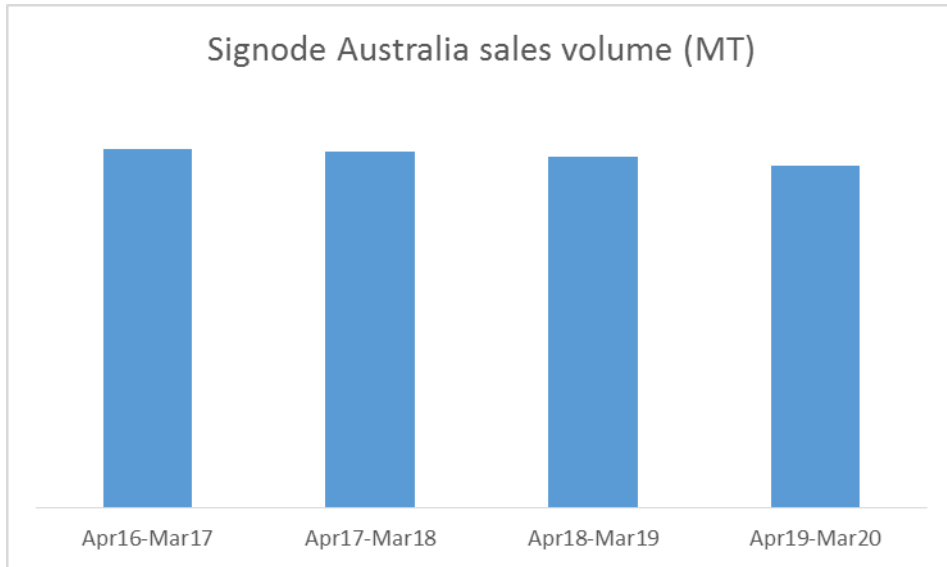
The data supporting the Commission's analysis of the Australian market and the economic condition of the Australian industry is at **Confidential Attachments 15 and 16**.

### 8.3 Volume effects

#### 8.3.1 Sales volume

The figure below depicts domestic sales volumes of like goods for Signode Australia since April 2016.

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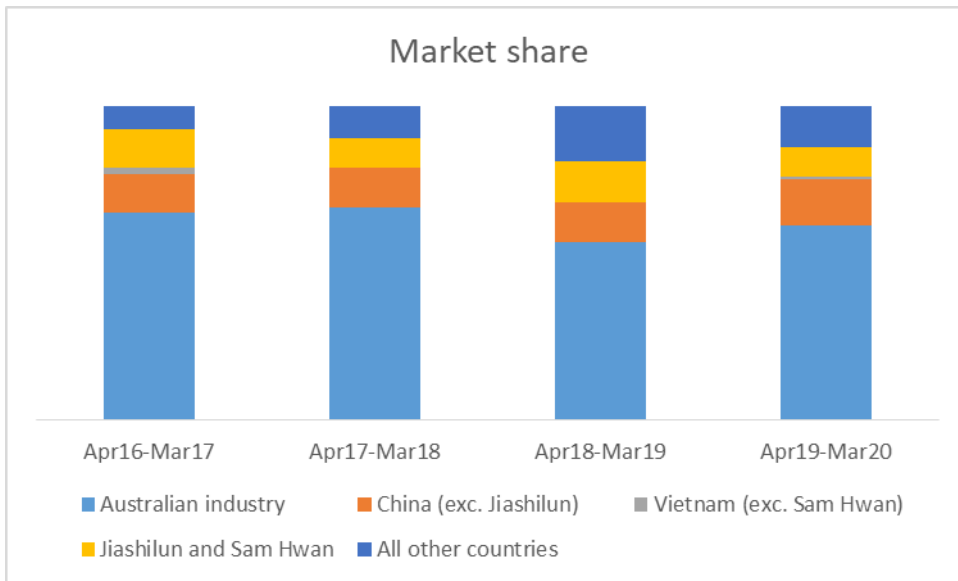


**Figure 4 – Australian industry’s domestic sales volume since April 2016**

The figure indicates a continuous decrease in sales volumes over the injury period.

**8.3.2 Market share**

The figure below sets out the Commission’s assessment of the market share held by the Australian industry, imports from China and Vietnam (excluding Jiashilun and Sam Hwan), imports from Jiashilun and Sam Hwan, and imports from all other countries over the injury period.



**Figure 5 – Market share**

The figure above indicates that the share of the Australian market for the goods held by Australian industry has remained generally steady, with a slight increase in the investigation period from the year before, but still to levels below where it was at the beginning of the injury period. The market share held by Chinese imports also remained steady, before increasing during the investigation period.

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Vietnamese imports, after excluding Sam Hwan, make up a small share of the Australian market for the goods over the injury period and are at a lower level in the most recent year of the injury period compared to the first.

Combined imports of Jiashilun and Sam Hwan, who have been found to not be dumping the goods during the investigation period, have fluctuated over the injury period, ending at a level lower than at the beginning of the April 2016 to March 2017 period.

### 8.3.3 Conclusion – volume effects

Based on the available information, the Commission is satisfied that the Australian industry experienced injury in the form of reduced sales volume over the investigation period. Signode Australia has also reduced market share in the investigation period compared to April 2016 to March 2017, but not when compared to the April 2018 to March 2019 period.

## 8.4 Price effects

### 8.4.1 Price suppression and price depression

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

The figure below depicts the weighted average selling price of the goods sold by Signode Australia compared to its weighted average cost to make and sell (CTMS) for the goods.

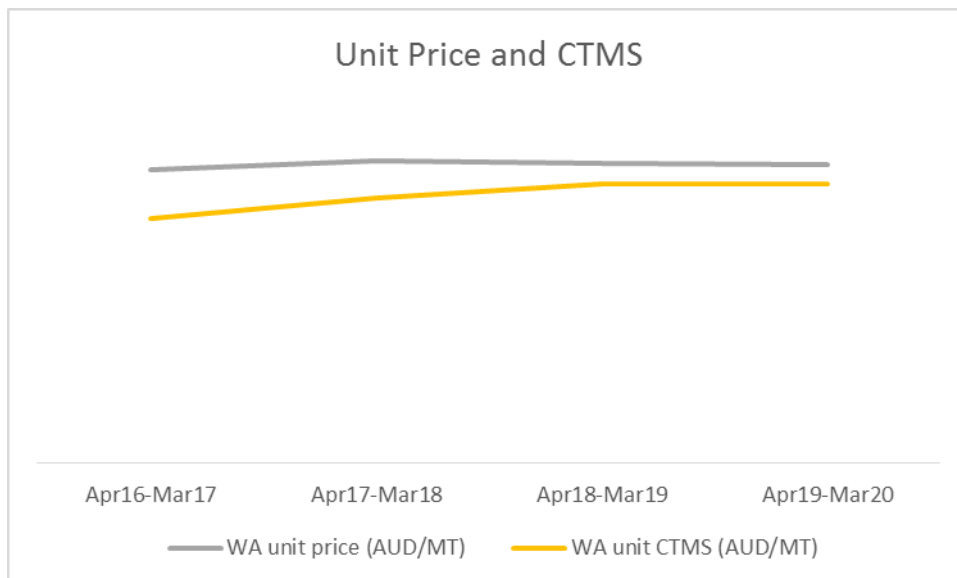


Figure 6 - Unit CTMS and unit selling price

It can be seen that the margin between the unit sales price and unit CTMS for the goods has narrowed consistently year on year over the injury period, with prices increasing only slightly in the first year period before steadying, while CTMS costs have continued to rise.

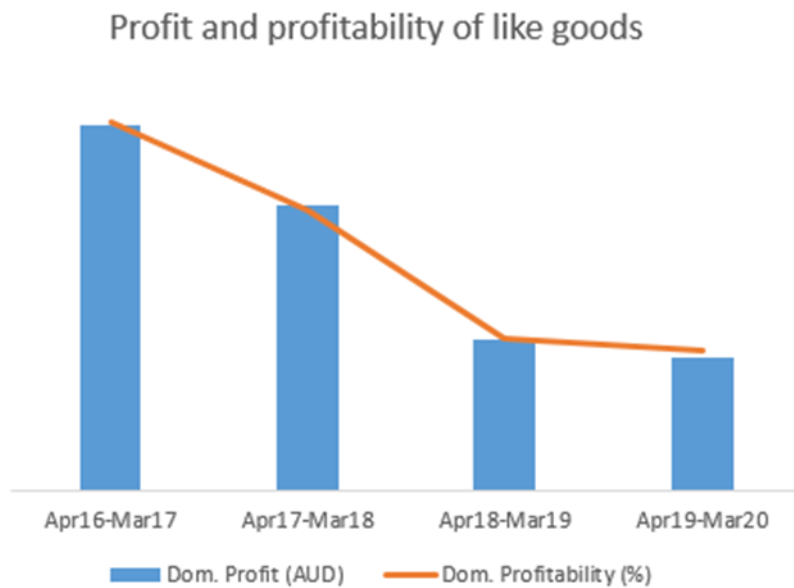


### **8.4.2 Conclusion – price effects**

Based on this analysis, the Commission considers that Signode Australia has experienced injury in the form of price suppression. However, the Commission is not satisfied that Signode Australia has experienced price depression. While there was a slight drop in the average selling price from April 2017 to March 2019, this drop is negligible. Prices during the investigation period remain higher than at the beginning of the injury period.

### **8.5 Profit and profitability**

The figure below depicts the Signode Australia’s total profit and unit profitability in respect of goods over the injury period.



**Figure 7 – Profits and profitability**

The figure indicates Signode Australia’s profit from the sale of like goods has dropped consistently each year over the injury period. Profitability has followed a similar decline.

#### **8.5.1 Conclusion – profit and profitability**

Based on this analysis, the Commission considers that Signode Australia has experienced injury in the form of lost profits and reduced profitability during the injury period.

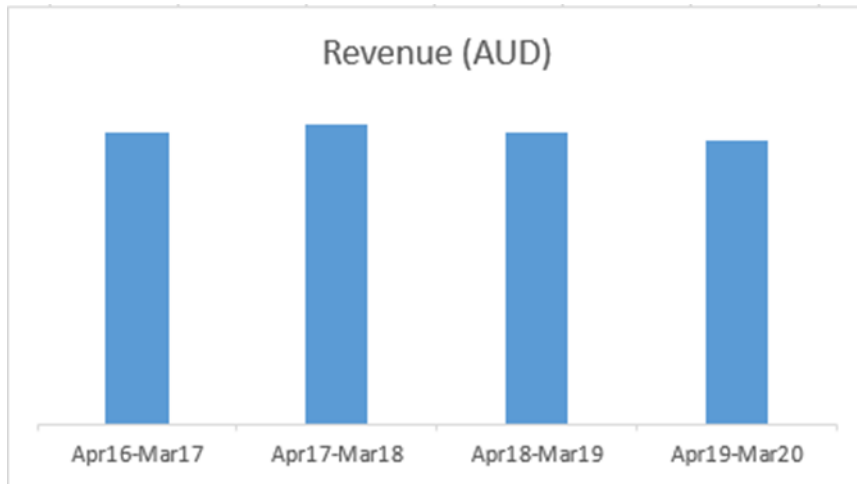
### **8.6 Other economic factors**

Signode Australia has claimed injury in the form of:

- reduced revenue;
- a decline in capital investment;
- a decline in return on investment; and
- reduced capacity utilisation.

The Commission has examined the data provided in respect of each of these claims.

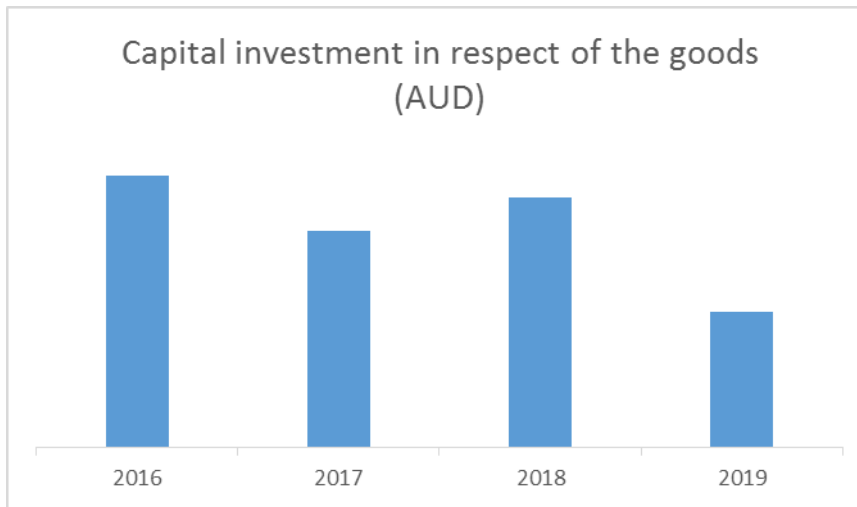
**8.6.1 Revenue**



**Figure 8 – Revenue**

The figure above depicts Signode Australia revenue from the sale of like goods over the injury period. It indicates that revenue increased in the second year of the injury period, before dropping the following year and then dropping further in the investigation period.

**8.6.2 Capital investment**



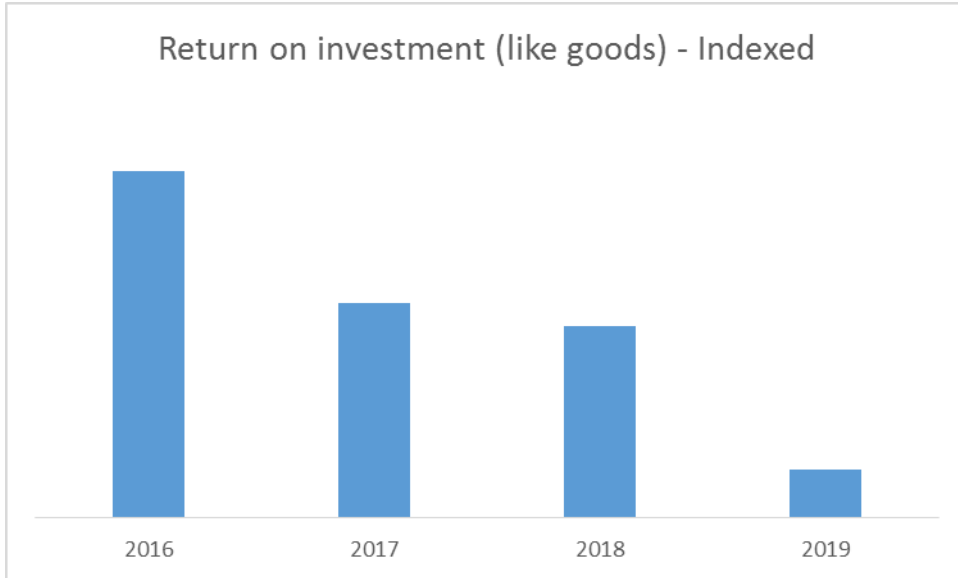
**Figure 9 – Capital investment**

The figure above depicts Signode Australia capital investment in respect of its manufacture of like goods on a calendar year basis, rather than on an April to March basis. The difference in reporting period is due to how capital investment data has been reported by Signode Australia. The Commission considers that due to the significant overlap of reporting periods, the difference in reporting will not impact the veracity of the data.

The figure indicates that capital investment has dropped over the course of the injury period.

**8.6.3 Return on investment**

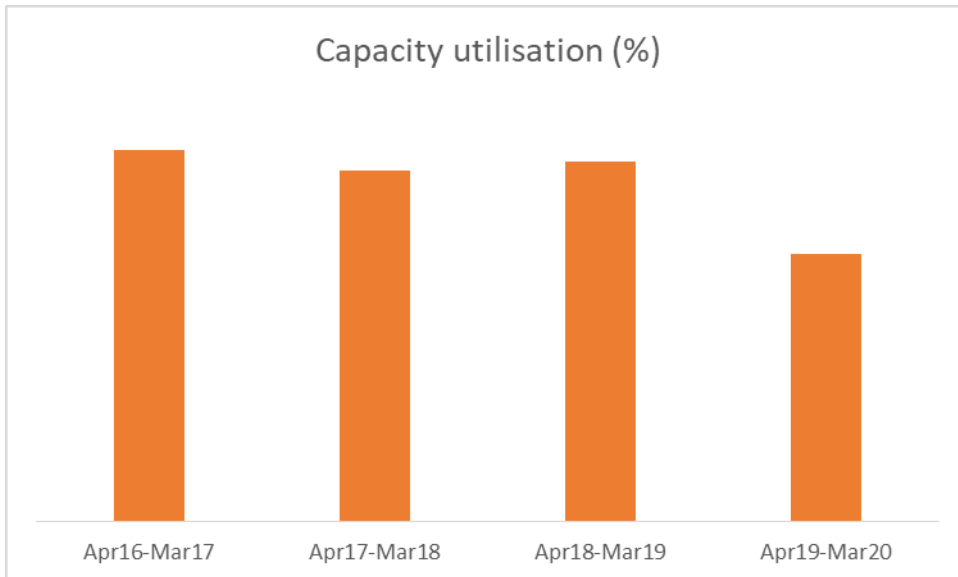
Signode Australia calculated its return on investment as a return on sales, which is an accepted form of ROI calculation by the Commission. The following chart illustrates the movement over the injury period.



**Figure 10 – Return on investment**

**8.6.4 Capacity utilisation**

The figure below depicts capacity utilisation using production data for all like goods, domestic and export, provided by Signode Australia. It indicates that capacity utilisation has dropped over the course of the injury period.



**Figure 11 – Capacity utilisation**

## **8.7 Conclusion**

Based on the information above, the Commission considers that Signode Australia has experienced injury in the form of:

- loss of sales volume;
- price suppression;
- loss of profit;
- reduced profitability;
- reduced revenue;
- a decline in capital investment;
- a decline in return on investment; and
- reduced capacity utilisation.

While Signode Australia has suffered a decline in market share in the investigation period when compared to the beginning of the investigation period, its share actually increased in the investigation period when compared to the previous 12 months.

## 9 HAS DUMPING AND/OR SUBSIDIES CAUSED MATERIAL INJURY?

### 9.1 Preliminary finding

The Commissioner is satisfied that the Australian industry has suffered material injury as a result of the exports of the goods at dumped and subsidised prices from uncooperative exporters from China in the forms of:

- loss of sales volume;
- price suppression;
- loss of profit;
- reduced profitability;
- reduced revenue;
- a decline in capital investment;
- a decline in ROI; and
- reduced capacity utilisation.

The Commission is not satisfied that Australian industry has suffered material injury caused by dumped imports from Vietnam.

### 9.2 Legislative framework

Under sections 269TG, 269TJ and 269TJA, one of the matters that the Minister must be satisfied of in order to publish a dumping duty and/or countervailing duty notice is that, because of dumping and subsidisation, the Australian industry has experienced material injury.<sup>70</sup>

Section 269TAE(1) outlines the factors, to which the Commissioner has had regard, and that may be taken into account when determining whether material injury to an Australian industry has been, or is being, caused or threatened.

Section 269TAE(2A) requires that regard be had to the question as to whether any injury to an industry is being caused by a factor other than the exportation of the goods, and provides examples of such factors.

In assessing material injury, the Commission also has regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).

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<sup>70</sup> Section 269TJA relates to concurrent dumping and countervailable subsidisation. This provision provides that, where goods are both dumped and subsidised, and because of the combined effects of the dumping and the amount of countervailable subsidy received in respect of the goods, material injury to an Australian industry producing like goods has been or is being caused, the Minister may publish a notice under either sections 269TG(1), 269TG(2), 269TJ(1) or 269TJ(2) or notices under such sections at the same time. Section 269TJA is relevant in this investigation due to the combined dumping and subsidisation in relation to goods exported to Australia from China by uncooperative and non-cooperative exporters.

### **9.3 Cumulative effect of injury**

Section 269TAE(2C) provides that when determining whether material injury to an Australian industry has been, or is being, caused or threatened by exports to Australia from different countries, the Minister should consider the cumulative effect of those exports only if the Minister is satisfied that:

- the margin of dumping established for each exporter and/or the amount of countervailable subsidy received is not negligible;
- the volume of dumped and/or subsidised imports from each country is not negligible; and
- a cumulative assessment is appropriate in light of the conditions of competition between the imported goods, and between all of the imported goods and the like domestic goods.

#### **9.3.1 Margin of dumping and the amount of countervailable subsidies received**

As detailed in chapters 6.7 and 6.8, the dumping margins for each exporter, other than Jiashilun and Sam Hwan, are not negligible.

The subsidy margin for Chinese exporters, other than Jiashilun, is also not negligible, as detailed in chapters 7.6 and 7.7.

#### **9.3.2 Volume of dumped and subsidised imports**

In chapter 6.7.4, the Commission found that the volume of dumped imports from China is not negligible. Imports from Jiashilun were not included in this volume, as the Commission found that imports from Jiashilun were not dumped.

In chapter 6.8.4, the Commission found that the volume of dumped imports from Vietnam is not negligible. The Commission notes that the volume of dumped imports from Vietnam includes those imports from Sam Hwan. While imports from Sam Hwan were dumped at negligible levels, i.e. at less than 2%, these imports remain included in the dumped volume assessment for Vietnam pursuant to section 269TDA(3).

As discussed in chapters 7.9 and 7.10, the Commission found that the volume of subsidised imports from China is not negligible. While imports from Jiashilun were at negligible levels, these imports remain included in the subsidised volume assessment for China pursuant to section 269TDA(7).

There was no investigation into the subsidisation of Vietnamese imports.

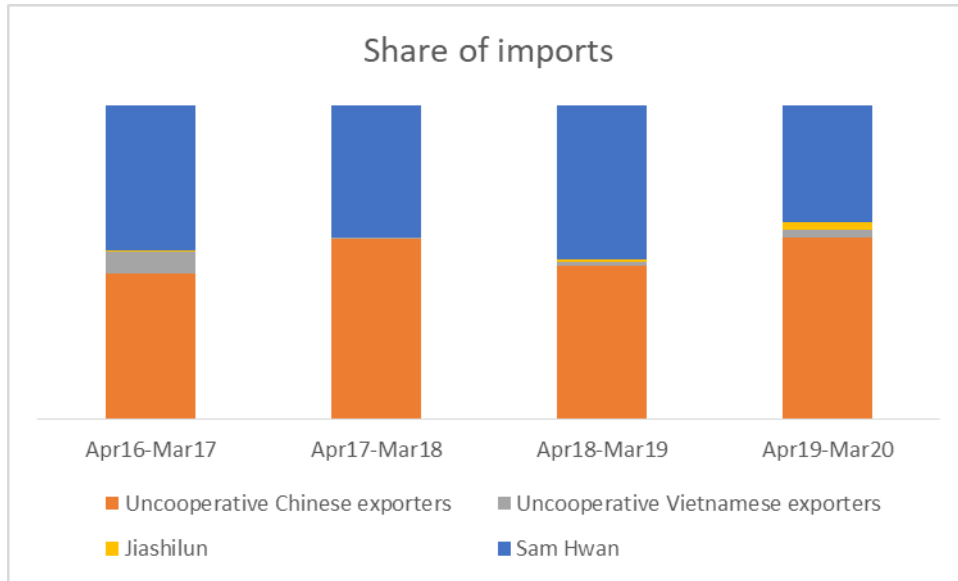
#### **9.3.3 Conditions of competition**

The Commission has examined the conditions of competition between the imported goods from China and Vietnam and the like goods produced by Australian industry. As detailed in chapter 5, painted steel strapping is a commodity product, with imported goods competing directly with each other and Australian produced goods and are substitutable with Australian produced goods in the same market segments. There are limited ways in which suppliers can differentiate their offering beyond price and service, with customers able to easily change suppliers.

**9.3.4 Commission’s assessment**

As there are dumping and subsidy margins above negligible levels, volumes of dumped and subsidised goods above negligible volumes and having regard to the conditions of competition between the Chinese and Vietnamese exports, and between Chinese and Vietnamese exports and domestically produced like goods, it would be appropriate to consider the cumulative effects of Chinese and Vietnamese exports.

The figure below depicts the share of import volume between the respective exporters into the Australian market over the injury period.



**Figure 12 – Share of import volume – subject countries**

Import volumes from the subject countries are dominated by imports from Uncooperative Chinese exporters and Sam Hwan, with Jiashilun and Uncooperative Vietnamese exporters each having a similar level of minor import volume.

The tables below show a breakdown of import sources from each of the subject countries during the investigation period.

Chinese exporters	% of exports from China
Uncooperative	96
Jiashilun	4

**Table 16 – Share of import volume – China**

Vietnamese exporters	% of exports from Vietnam
Uncooperative	7
Sam Hwan	93

**Table 17 – Share of import volume - Vietnam**

The Commission notes the significant majority of imports from China are from Uncooperative exporters, which have been found to be at dumped levels. This compares to Vietnam, where the significant majority of imports are from Sam Hwan, which have been found to be dumped at negligible levels.

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The table below depicts the volumes of goods exported from each country which have been dumped above negligible levels.

% of exports at non-negligible levels of dumping	
China	96
Vietnam	4

**Table 18 – Share of imports from the subject countries above negligible levels**

The Commission also notes that imports from China have been found to have a large subsidy margin, compared to imports from Vietnam where no such finding has been made.

Having examined the elements set out in section 269TAE(2C), the Commission does not consider that the cumulative effect of exports from China and Vietnam should be used to determine whether material injury to an Australian industry has been, or is being, caused or threatened by exports to Australia, for the following reasons:

- a significant majority of the volume of goods exported to Australia above negligible levels have come from China, compared to only 4% coming from Vietnam;
- the dumping margin for dumped goods from China is more than double the dumping margin for dumped goods from Vietnam, 11.5% to 4.3%;
- 96% of goods exported from China have a large subsidy margin, compared to no subsidised exports from Vietnam.

In light of the above, the Commissioner is of the view that the Minister should not consider the cumulative effect of exports from China and Vietnam. To do so would result in an inaccurate consideration of the impact of exports from each country when determining whether the Australian industry has experienced injury caused by dumped and subsidised goods.

The analysis in the remainder of this chapter is therefore based on the individual effect of exports from each of the subject countries.

The Commission's assessment for cumulation is at **Confidential Attachment 15**.

### 9.4 Approach to causation analysis

As outlined in Chapter 8, the Commission considers that the Australian industry has experienced injury in the investigation period and this injury has coincided with the presence of dumped and subsidised goods from China and Vietnam. This chapter will analyse whether injury to the Australian industry was caused by dumping and subsidisation and whether that injury is material.

The Commission has, for the purposes of this SEF, assessed injury and causation by examining the following evidence:

- verified volume, price, and profit effects of the Australian industry during the injury period and investigation period;
- verified sales data from cooperating exporters to determine sales prices and volumes achieved by these exporters from China and Vietnam;



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- information from the ABF import database to determine import volumes and export prices; and
- the broader context of the economic condition of the Australian industry.

### 9.5 Size of dumping margins

Section 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins worked out in respect of the goods exported to Australia. Dumping margins have been calculated below:

- Uncooperative exporters from China: 11.5%
- Uncooperative exporters from Vietnam: 4.3%

The Commission found that the dumping margins for the cooperative exporters were below negligible levels of 2%. As noted in chapter 9.3, the volume of exports from Jiashilun was minimal, whereas export volume from Sam Hwan accounted for a significant majority of the volume exported from Vietnam during the investigation period. **The Commission has not attributed injury to the Australian industry in relation to exports from the subject countries by the two cooperating exporters.**

The Commissioner considers **that the magnitude of dumping by uncooperative Chinese and Vietnamese exporters, whose margins were not negligible, provided them with the ability to offer the goods to importers in Australia at prices that were lower than would otherwise have been the case.**

### 9.6 Size of subsidy margins

Section 269TAE(1)(ab) provides that regard may be given to the size of each countervailable subsidy margin worked out in respect of the goods exported to Australia. A countervailable subsidy margin was calculated for non-cooperating entities from China **at 42.6%.**

The Commissioner considers that the magnitude of subsidisation of Chinese non-cooperative entities (excluding Jiashilun) provided them with the ability to offer the goods to importers in Australia at prices lower than would otherwise have been the case if there was no subsidisation.

### 9.7 Volume effects

As discussed in chapter 8.3, the Commission is satisfied that Signode Australia has suffered volume related injury.

The figure below depicts the change in sales volumes of Signode Australia and the cumulative volumes of exporters from China and Vietnam (excluding Jiashilun and Sam Hwan).

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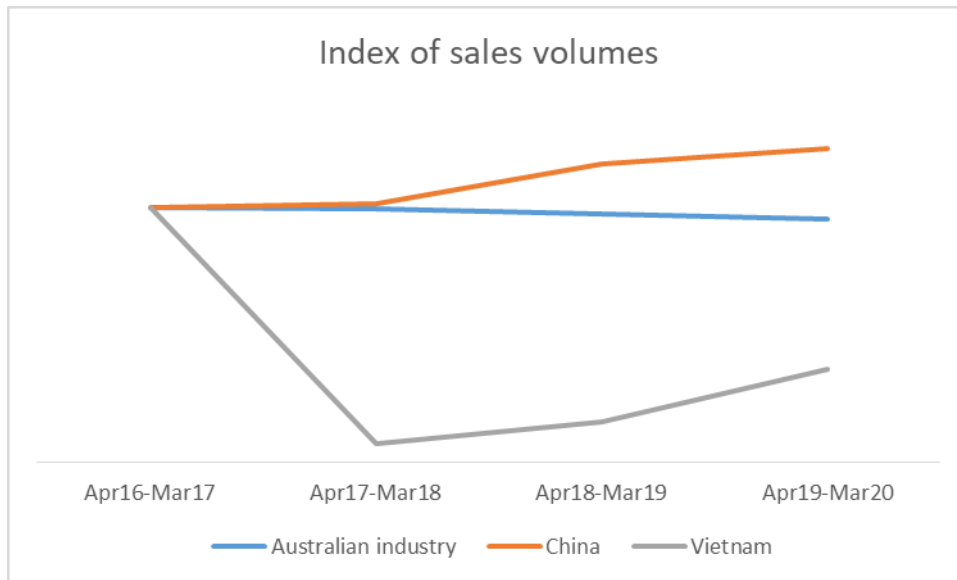


Figure 13 – Index of Sales volumes<sup>71</sup>

The figures indicate that sales volumes of painted steel strapping have declined steadily for Australian industry over the injury period.

Sales volumes for China have increased over the injury period, particularly over the last three years.

Vietnamese sales volumes dropped considerably between the April 2016 to March 2017 and April 2017 to March 2018 periods, but have trended upwards each year since then, but are still well below April 2016 levels.

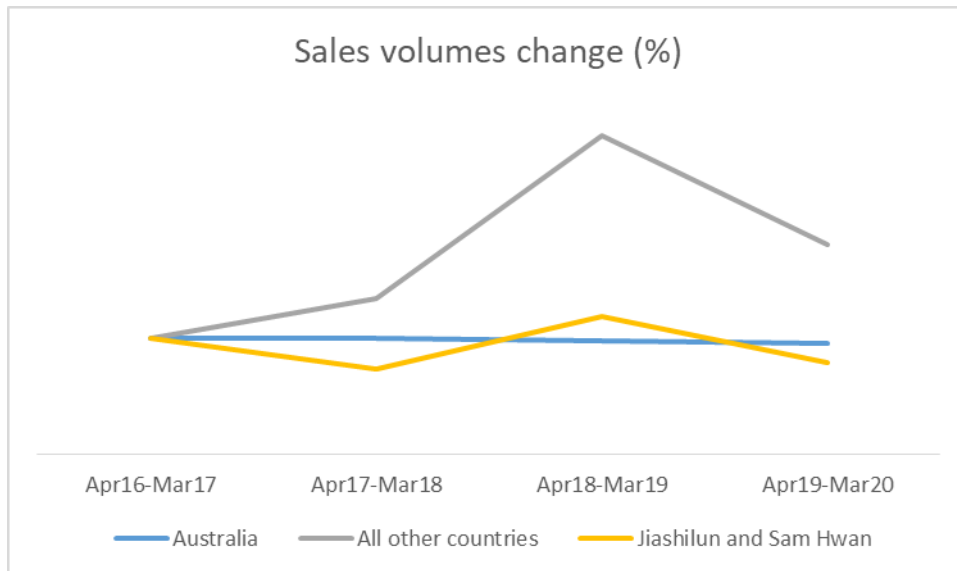
Based on this analysis, the Commission considers that there appears to be a correlation between an increase in imports from China (excluding Jiashilun) with a decrease in sales volumes for Australian industry that supports Signode Australia's claim it has suffered volume related injury over the injury period. The Commission does not consider that such a correlation exists with Vietnamese imports, noting that while they have increased over the last two years of the injury period, this is after a significant decrease and at much lower volumes.

The Commission has also examined imports which were not dumped, i.e. imports from all other countries (not including the subject countries) over the injury period along with imports from Jiashilun and Sam Hwan, to examine what impact these imports may have had on Australian industry.

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<sup>71</sup> Excluding Jiashilun and Sam Hwan.

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**Figure 14 – Index of sales volumes – Undumped imports**

This figure above shows that import volumes from all other countries have increased significantly over the injury period. Imports from Jiashilun and Sam Hwan have varied in each year, and ended the investigation period slightly down on where they started compared to the beginning of the injury period.

The Material Injury Direction provides that injury from dumping or subsidisation need not be the sole cause of injury to the industry, where injury caused by dumping or subsidisation is material in degree. It further provides that the materiality of injury caused by a given degree of dumping or subsidisation can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping or subsidisation.

Noting the above, the Commission considers that while dumped and subsidised goods from China (excluding Jiashilun) have contributed to the volume injury suffered by Signode Australia, it is not the sole cause, and that imports from other countries may have also contributed to the cause of such injury. The materiality of this injury is discussed in chapter 9.12.

The Commission does not consider that dumped goods from Vietnam (excluding Sam Hwan) have contributed to any volume injury.

### 9.8 Price effects

As discussed in chapter 8.4, the Commission considers that Signode Australia has experienced injury in the form of price suppression. Signode Australia claimed in its application that it has been unable to increase its prices for like goods, in a period where its production costs have risen, as a result of dumped and subsidised imports from the subject countries undercutting its selling prices.

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Price undercutting occurs when imported goods are sold at a price below that of the Australian produced like goods.

### 9.8.1 Use of unverified importer data

As noted in chapter 2.3.3, data was received from three importers, but due to a lack of participation from importers, the data provided was not verified.

Usually, when conducting a price undercutting analysis, the Commission will use verified sales data sourced from cooperating importers. However, in this investigation there were no cooperating importers. The Commission does have access to unverified importer data for Vietnamese imports, and so has used this data, along with sales data from cooperating Chinese and Vietnamese exporters and data from Australian industry, to calculate the likely price at which goods have been exported and sold in Australia. This price has then been used in the undercutting analysis.

The Commission considers that data provided by importers in respect of Vietnamese imports is sufficient to use in a price undercutting analysis. To test the veracity of this data in the absence of verification, the Commission has compared the data against an importation costs model created using verified importer data from two similar recent cases:

- Review 528 into Hot rolled coil steel exported from Taiwan; and
- Investigation 550 into Precision Pipe and Tube exported from China, Korea, Vietnam and Taiwan.

Importer data from these two cases has been selected for the following reasons:

- they have inquiry periods similar to the investigation period;
- they have HRC as a raw material input; and
- they are within the same geographical region.

While there was a discrepancy between the importation costs model and the unverified importer data, this was considered to be marginal. Accordingly, the Commission has preferred to use the Vietnamese importer data to that of the importation costs model as it considers it more likely to reflect the true price of importing the goods from Vietnam into Australia.

As there was insufficient importer data for Chinese imports, the Commission has used the importation figures calculated by the importation costs model.

The Commission's importation model analysis is at **Confidential Attachment 17**.

### 9.8.2 Price undercutting analysis

In order to compare Signode Australia's prices to the price of the dumped goods, the Commission compared the monthly weighted average Free into Store (FIS) selling price of like goods by Signode Australia against the calculated weighted average FIS selling price of the goods imported from China, Vietnam (excluding Jiashilun and Sam Hwan) and all other countries.

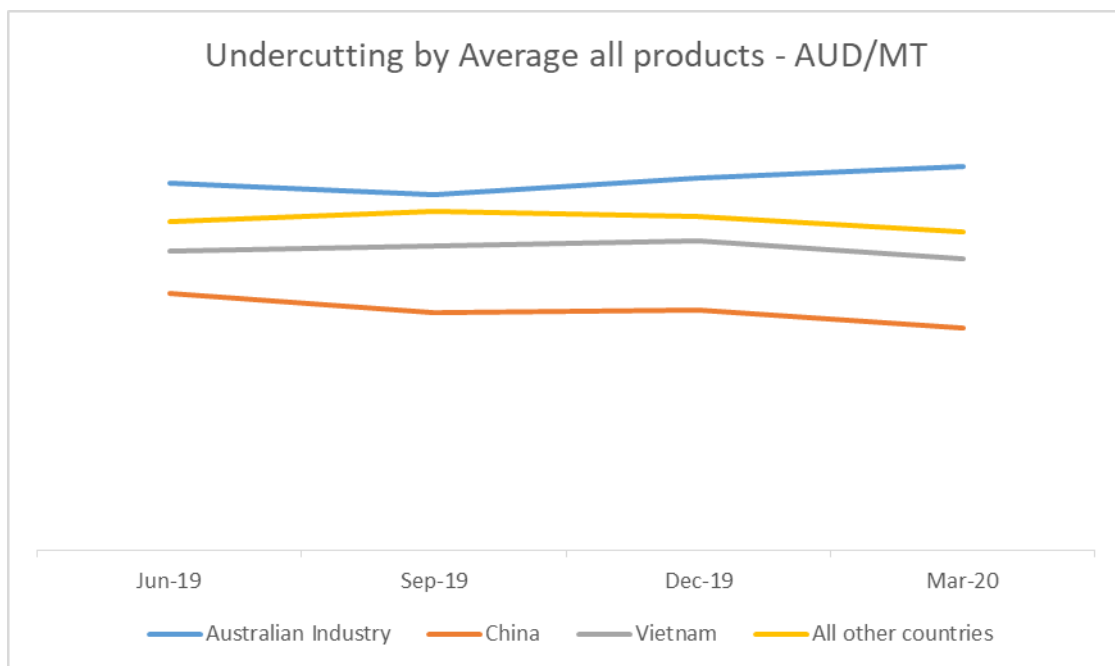
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Signode Australia's selling price data for the investigation period was provided at the FIS level of trade and so no adjustment was required.

The calculated FIS selling price for imports was calculated as follows:

- the weighted average FOB price for imports was derived from data available from the ABF import database; plus
- an average importation cost, SG&A and profit using the figures from the importation costs model for imports from China and all other countries, and the figures from the unverified Vietnamese importer for Vietnamese imports.

Having regard to the approach outlined above, the Commission's price undercutting analysis found that Signode Australia's price for the goods were undercut by Chinese and Vietnamese exporters.

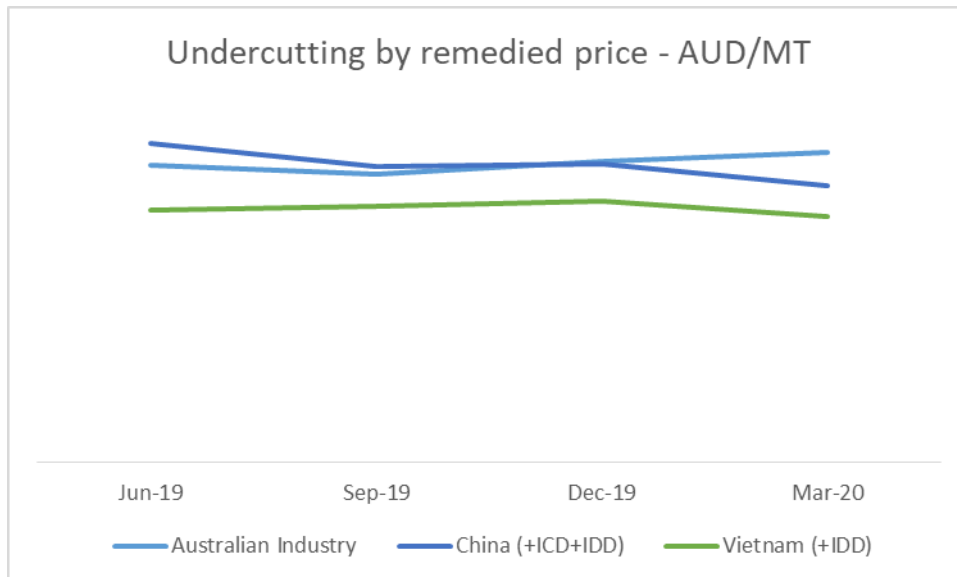


**Figure 15 – Price undercutting comparison**

The Commission found that the price of the goods exported from the subject countries undercut Signode Australia's prices in each quarter of the investigation period with increased levels of undercutting over the entire period, with goods imported from China and Vietnam undercutting Australian manufactured goods by 30% and 18% respectively at the commencement of the investigation period, and ending the period undercutting at 42% and 24% respectively.

The Commission has also undertaken a price undercutting analysis using remedied Chinese and Vietnamese prices, i.e. including the applicable dumping and subsidy margins.

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**Figure 16 – Price undercutting comparison with remedied price**

It can be seen that the remedied Chinese price closely matches the Australian industry price over the investigation period, indicating the level of undercutting by Chinese imports (excluding Jiashilun) is closely related to the level of dumping and subsidisation of the goods.

Remedied Vietnamese prices (excluding Sam Hwan) are still below those of Australian industry, indicating that the undercutting by Vietnamese imports is not wholly a result of dumping.

The price trends discussed above support the claims in the application that Signode Australia has been unable to increase the price of its like goods, in a period where its production costs have increased, as a result of the availability of cheaper dumped and subsidised goods on the Australian market. The Commission considers in the absence of dumped and subsidised goods, Signode Australia would have been able to increase its prices to limit the injury suffered as a result of its rising production costs. However, the presence of dumped and subsidised goods is not the sole cause of such injury suffered by Signode Australia, as Vietnamese goods, if imported at an undumped or remedied price, still undercut Australian industry prices. This is discussed further in chapter 9.11.3.

### 9.8.3 Real world examples

Signode Australia provided a number of “real-world” examples of price undercutting to the Commission where it has as a result reduced its prices in order to compete with goods imported from China and Vietnam. The examples examined by the Commission referred to negotiations with its customers where imports of the goods undercut the prices offered by Signode Australia, and the pressures put on Signode Australia’s margins caused by higher concurrent raw material costs. Following verification of Signode Australia, the Commission was satisfied these were valid examples of price injury, but the Commission could not be satisfied that the undercutting referred to was as a result of imports from the

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subject countries due to a lack of evidence linking the examples with goods imported from China and Vietnam undercutting Signode Australia prices.<sup>72</sup>

### 9.8.4 Conclusion

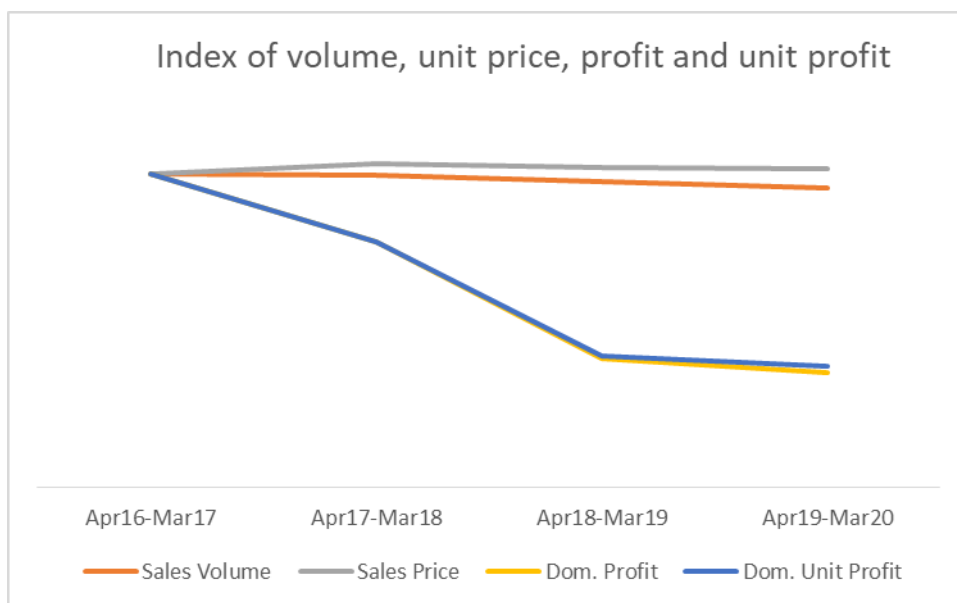
Noting the above, the Commission considers that dumped and subsidised goods from China, and to a lesser extent, dumped goods from Vietnam, have contributed to the price suppression injury suffered by Signode Australia. **However, dumped imports from the subject countries may not be the sole cause on injury, as undumped imports from other countries and Vietnam may have also contributed to such injury.**

The Commission's price undercutting analysis is at **Confidential Attachment 18**.

### 9.9 Profit effects

As discussed in chapter 8.5, the Commission is satisfied that Signode Australia has suffered injury in the form of lost profits and reduced profitability in respect of the goods.

The figure below depicts the changes in sales volume, sales price, profit and per unit profit for Signode Australia over the injury period.



**Figure 17 – Index of sales volume, unit price, profit and unit profit**

The figure indicates there is a strong correlation between profit from the sale of the goods by Signode Australia and per unit profit. Sales volume and sale price appear to have negligible correlation to profit.

As the per unit profit of painted steel strapping is contingent on the sales price and CTMS of the goods, and noting that the sales price has remained relatively steady, the Commission considers the most significant driver of profit is CTMS. This is consistent with Signode's claims that it has been unable to increase its prices in a time of increasing

<sup>72</sup> EPR 553, Item 16, Confidential Attachment 1.

costs. As discussed above in chapter 9.8, the Commission is satisfied that Signode Australia has been unable to increase its prices as a result of dumped and subsidised goods from China, and to a lesser extent, the dumped goods from Vietnam. The effect is that Signode Australia has experienced reduced profit and profitability.

## **9.10 Other economic factors**

As discussed in chapter 8.6, the Commission is satisfied that Signode Australia has suffered injury in the form:

- reduced revenue;
- a decline in capital investment;
- a decline in ROI; and
- reduced capacity utilisation.

### **9.10.1 Revenue**

Revenue is a product of sales volume and sales price. A decrease in either will result in a corresponding decrease in revenue.

As discussed in chapters 8.3 and 8.4, sales prices have remained steady over the injury period and sales volumes have dropped. The Commission is satisfied that sales volumes for Signode Australia have decreased over the injury period as a result of dumped and subsidised goods from China. Accordingly, the Commission is satisfied that any reduction in revenue is as a result of dumped and subsidised goods being imported into Australia from China.

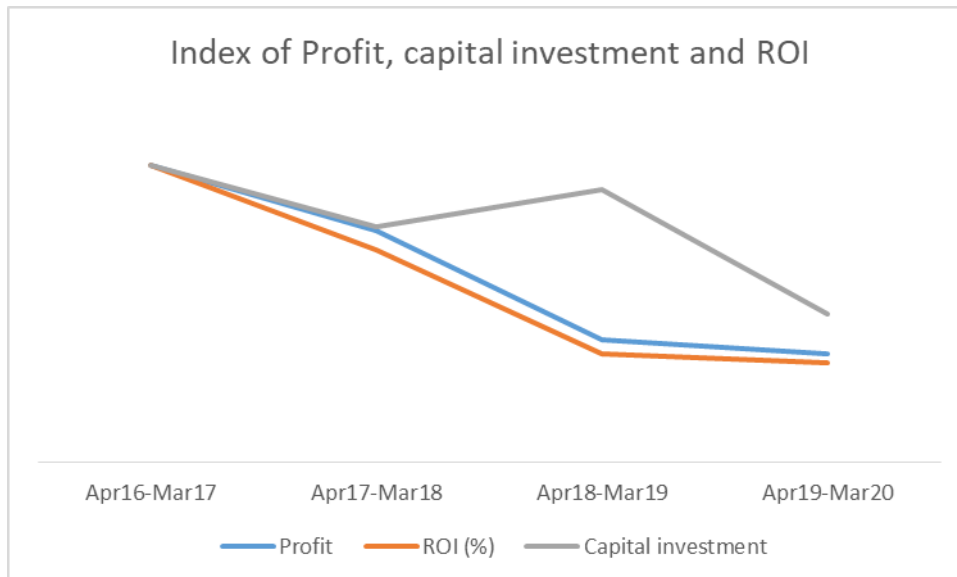
### **9.10.2 Capital investment and ROI**

Signode Australia submits it has reduced its capital investment in painted steel strapping as profit and profitability has deteriorated to levels where further investment cannot achieve an adequate return on funds.

The figure below depicts the changes in Signode Australia profit, capital investment and ROI over the injury period.



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**Figure 18 – Index of profit, capital investment and ROI**

Consistent with Signode Australia’s claims, capital investment and ROI have declined broadly in line with its decreasing levels of profit over the whole of the injury period, although it is noted there is an increase in capital investment in the April 2018 to March 2019 period.

As discussed above in chapter 9.9, the Commission is satisfied that the decrease in profit is as a result of dumped and subsidised goods being imported into Australia from the subject countries, which has resulted in a decrease in capital investment and ROI.

### 9.10.3 Reduced capacity utilisation

Signode Australia’s production capacity was unchanged over the injury period. The reduction in production volumes discussed in chapter 9.7 has resulted in a corresponding reduction in capacity utilisation. As found in chapter 9.7, the Commission was satisfied that the decrease in production volumes was as a result of dumped and subsidised imports of the goods. Accordingly, the Commission is also satisfied that Signode Australia’s reduced capacity utilisation has also resulted from such imports.

## 9.11 Factors other than dumping and subsidisation causing injury

Section 269TAE(2A) states that the Minister must consider whether any injury to an industry is being caused or threatened by a factor other than the exportation of the goods. If so, any such injury must not be attributed solely to the exportation of the goods.

Section 269TAE(2A) outlines several considerations for the decision maker when making a determination of injury. The Commission has considered these factors, and has also examined other potential causes of injury to the Australian industry, other than dumped and subsidised goods exported from the subject countries.

As well as imports from other countries, discussed already in chapter 9.7, the Commission also considers that a fall in demand from customers may also have an impact on the economic condition of the Australian industry producing like goods.

**9.11.1 Imports from other countries, Jiashilun and Sam Hwan**

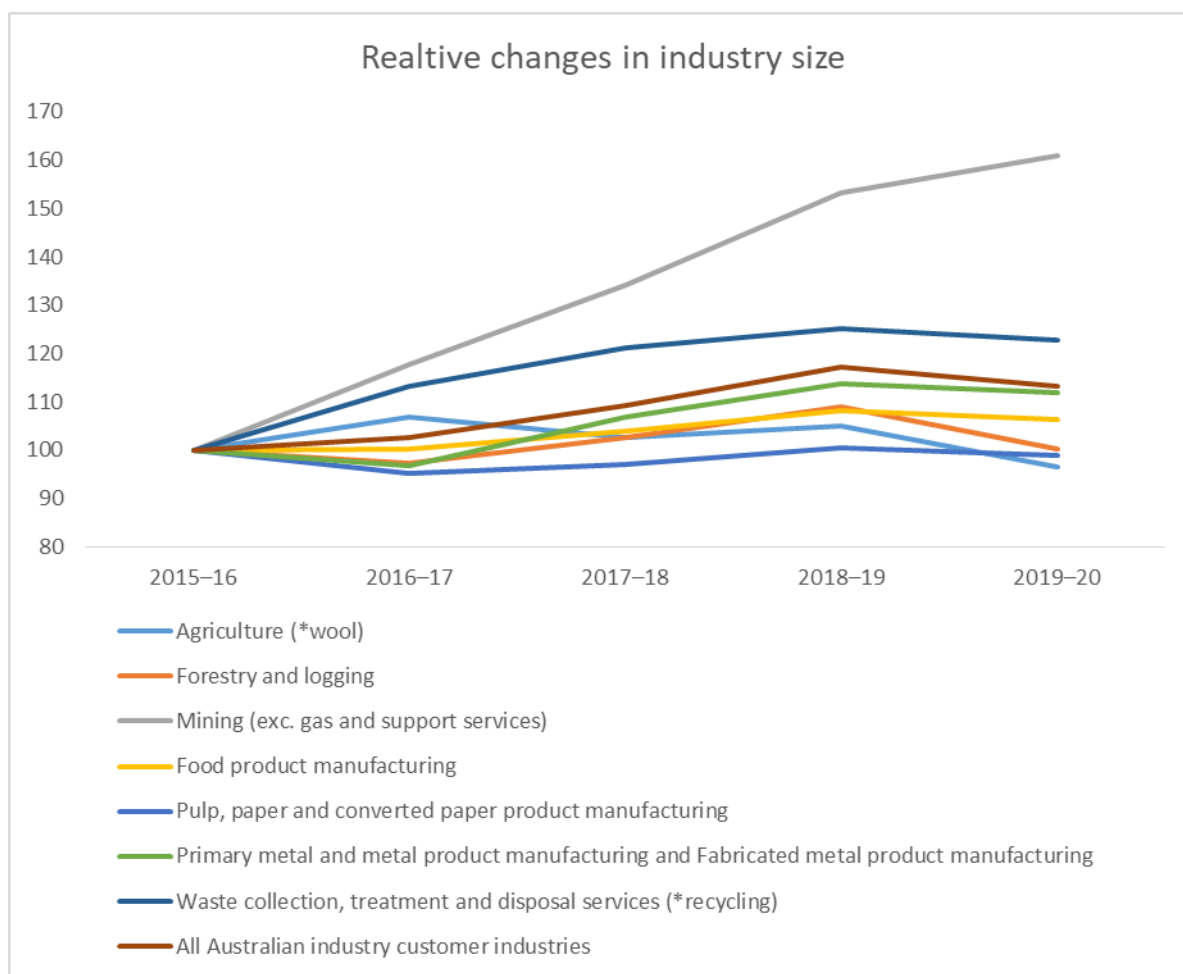
As already discussed in chapter 9.7, the Commission considers that while dumped and subsidised goods from the subject countries have contributed to the volume injury suffered by Signode Australia, it is not the sole cause, and that imports from other countries may have also contributed to the cause of such injury. Whether imports from the subject countries have caused material injury to Australian industry in the presence of undumped imports is discussed in chapter 9.12.

**9.11.2 Changes in demand**

Signode Australia states it has maintained relatively stable domestic sales volumes of steel strapping over the four-year period 2016 to 2019 by lowering its selling price to respond to lower priced imports from China and Vietnam.

As discussed in chapter 5.3.3, demand is driven by output of its customers, primarily food products, steel manufacturers, raw material ores, paper, timber, wool and recycling.

The figure below depicts the relative change in the sales of each of the key customer industries of Signode Australia since the 2015-2016 financial year.



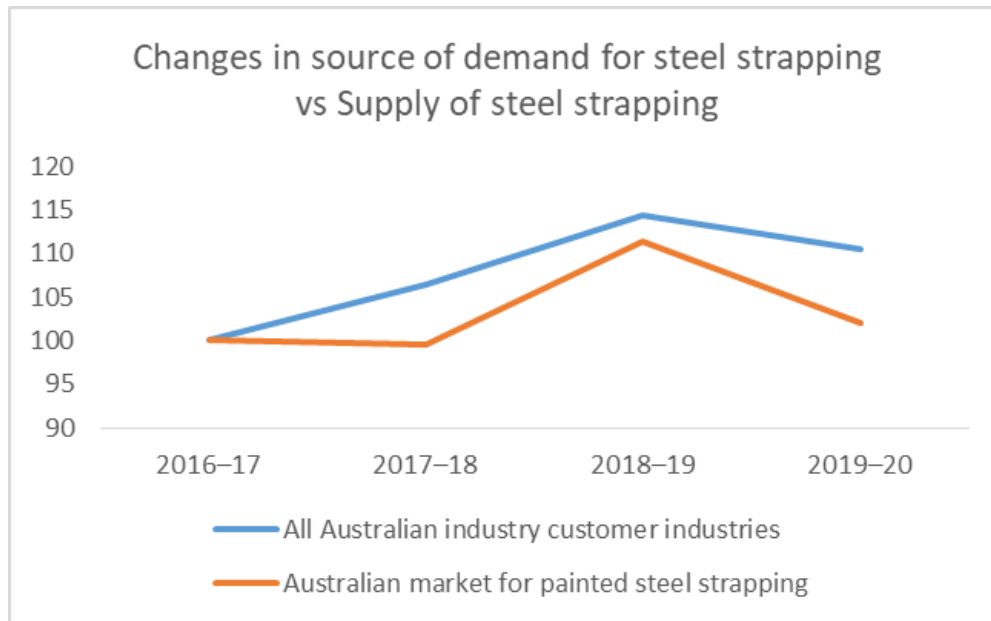
**Figure 19 – Relative changes in key customer industries**

The figure above has been derived from ABS sales and service income for relevant Australian industry sectors.

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It can be seen that in every customer industry from 2015-16 to 2019-2020 (the closest data range available to the Commission to the injury period) most industries have experienced sales growth.

The figure below depicts an index of sales for all customer industries combined, which the Commission considers representative of the demand in Australia for painted steel strapping, versus the size of the Australian market for painted steel strapping



**Figure 20 – Index of sales for all customer industries combined vs Australian sales of steel strapping**

The Commission is satisfied, based on the above, that sales of the goods by Australian industry and importers generally corresponds with movements in the sales by its customer industries and therefore that demand is driven by customer output, consistent with the claims made by Signode Australia.

The Commission considers that movements in its key customer industries would impact demand in painted steel strapping. It would be expected that an increase in the size of its potential customer base would lead to greater sales volume, and in the event of consistent sales volume, greater prices.

However, as noted previously, sales volumes by Signode Australia have fallen slightly over the injury period, while prices have remained the same.

Accordingly, the Commission is satisfied that the injury suffered by Australian industry is not as a result of changes in customer demand.

### 9.11.3 Lower Vietnamese prices

The price undercutting analysis in chapter 9.8 indicates that remedied Chinese prices (i.e. Chinese import prices once the applicable dumping and subsidy margin has been applied) are close to Australian industry prices, indicating that price related injury from dumped and subsidised Chinese imports is closely correlated with the level of dumping and subsidisation. However, remedied Vietnamese prices still undercut Australian industry prices. This indicates that price related injury from dumped Vietnamese imports

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is only partly correlated with dumped prices, with undumped prices still undercutting Australian prices and thereby causing injury. The Commission examined the level of undercutting by remedied and dumped import prices and found a difference of between 3% and 4% in each quarter of the investigation period, indicating the level at which the Commission considers that dumped Vietnamese imports correlate with price related injury.

### 9.11.4 Conclusion

#### China

The Commission is satisfied that injury including loss of sales volumes and price suppression has occurred as a result of dumped and subsidised goods from China for the following reasons:

- Import volumes of dumped and subsidised goods from China increased over the injury period, correlating with a decrease in Australian industry sales volumes; and
- China sales prices undercut Australian industry prices by up to 42% over the injury period, with the level of undercutting closely related to the level of dumping and subsidisation.

#### Vietnam

The Commission is satisfied that injury in the form of price suppression has occurred due to the presence of dumped goods from Vietnam in the Australian market over the injury period undercutting Australia industry prices. However, the Commission notes that the level of undercutting by Vietnamese prices is not wholly attributed to dumping.

The materiality of injury caused by Chinese and Vietnamese imports is examined in chapter 9.12.

### 9.12 Materiality of dumping causing injury

In addressing the materiality of the injury caused by dumping, the Commission has had regard to those forms of injury which the Commission has determined have been caused by the dumped and subsidised imports from the subject countries:

- loss of sales volume;
- price suppression;
- loss of profit;
- reduced profitability;
- reduced revenue;
- a decline in capital investment;
- a decline in ROI; and
- reduced capacity utilisation.

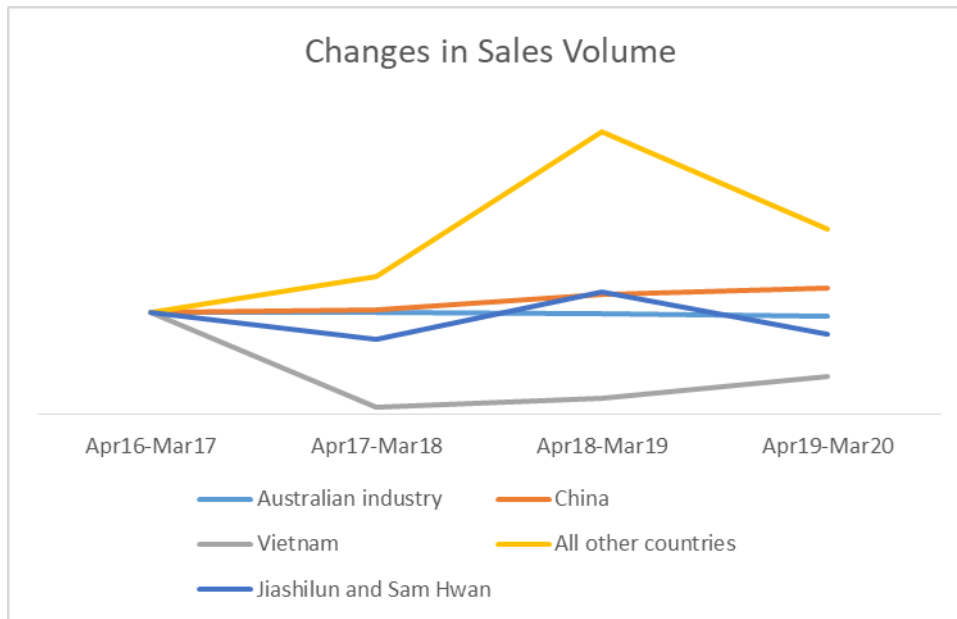
The information before the Commission indicates that Australian industry has suffered injury in the form of reduced sales volumes and market share as a result of both dumped and undumped goods. The Commission considers it would have achieved a higher

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volume of sales and a higher market share if not for these imports. As noted previously, the Material Injury Direction provides that injury from dumping or subsidisation need not be the sole cause of injury to the industry, where injury caused by dumping or subsidisation is material in degree.

### Volume injury

The figures below depict changes in sales volume and market share for Australian industry, dumped and subsidised imports from China and Vietnam, imports from Jiashilun and Sam Hwan and all other countries.



**Figure 21 – Changes in sales volumes**

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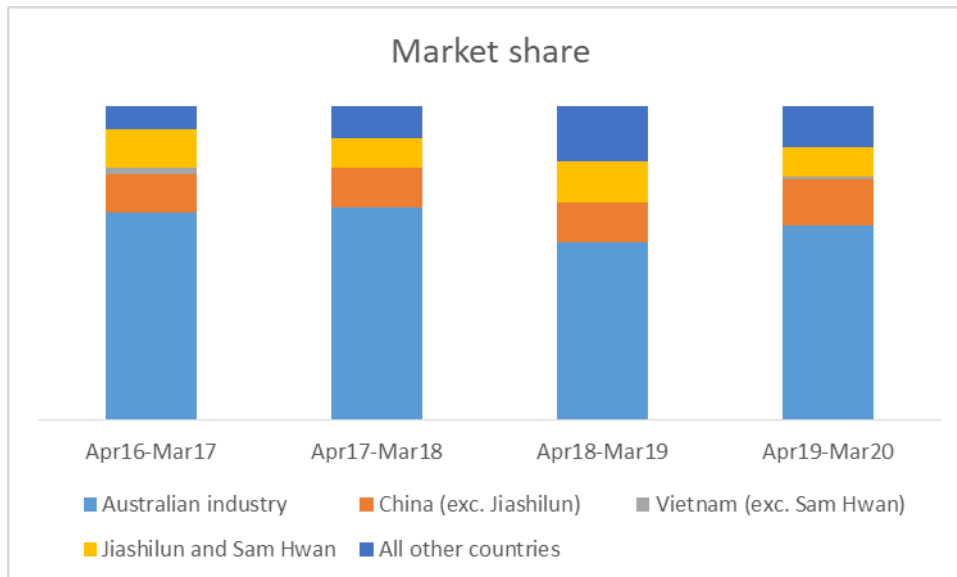


Figure 22 – Market share<sup>73</sup>

Australian industry sales volumes have dropped 5% over the injury period (down 2% over the investigation period), compared to a rise of imports from China of 24% (up 5% in the investigation period) and a decrease of 63% of imports from Vietnam (up 135% in the investigation period, albeit from a low base). This compares to an increase of 2% in the size of the Australian market for painted steel strapping over the injury period.

Imports from Jiashilun and Sam Hwan dropped by more than 20% over this period, while imports from all other countries rose by more than 80%, also from a low base.

When the changes in sales volume are put into context looking at respective market share, it can be seen that the impact in the movement in sales by Australian industry, China, Jiashilun and Sam Hwan and All other countries are much more material than movements in sales of dumped Vietnamese goods.

After considering the movements above in sales volume, the Commission considers that Australian industry sales volume injury in the investigation period has likely been caused to some extent by undumped imports, mostly by increases in imports from other countries as opposed to imports from Jiashilun and Sam Hwan, which have remained relatively steady.

However, a proportion of volume injury can still be attributed to dumped and subsidised imports from China (excluding Jiashilun). While Chinese imports have not increased to the same extent as undumped imports, they have still increased in the investigation period and represent the largest market share of imports in Australia. The Commission considers it likely that sales volumes and market share for Australian industry would have been higher were it not for the presence of these imports in the Australian market.

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<sup>73</sup> This figure differs to Figure 1 due to the separation of Jiashilun and Sam Hwan from their respective country volume count.

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The level of volume injury caused by dumped and subsidised Chinese imports, combined with the level of undercutting of these imports, satisfies the Commission that the injury caused to Australian industry by dumped and subsidised Chinese imports is material.

The available information indicates the Australian industry would have likely achieved a higher profit and improved profitability had it not experienced injury in the form of price suppression due to the availability of dumped and subsidised goods exported to Australia from China. As can be seen in the figures in chapter 8.5, both profit and profit has dropped significantly over the injury period.

The dumping and subsidisation of these goods and the resulting injury were further found to have a direct impact on injury in the form of other economic factors such as reduced revenue, decreased capital investment and reduced ROI. The extent of this impact can be seen in the figures in chapter 8.6.

The injury suffered by Signode Australia as a result of these dumped and subsidised imports from China, when taken as a whole, is not immaterial, with key indicators of profit and profitability, linked to lower sales volumes and price suppression, declining consistently over the injury period to levels now less than half than where they were prior to the importation of dumped and subsidised imports from China.

As noted in chapter 9.7, the Commission does not consider that Vietnamese exports contributed to any volume injury suffered by Australian industry over the investigation period due to a lack of correlation and a decrease in volumes over the injury period. It is noted that dumped imports from Vietnam represented less than 1% of the Australian market in the investigation period.

The level of undercutting by dumped Vietnamese imports is not as great as that observed for Chinese imports, and as discussed in chapter 9.11.3, price related injury from dumped Vietnamese imports is only partly correlated with dumped prices, with undumped Vietnamese prices still undercutting Australian prices.

Accordingly, the Commission cannot be satisfied that dumped Vietnamese goods have caused material injury to the Australian industry during the investigation period.

### **9.13 Conclusion**

The Commission has found that, in respect of goods imported from China:

- the volume of dumped and subsidised goods exported to Australia is not negligible;
- all dumped and subsidised goods exported to Australia were above negligible levels;
- the sales volume of like goods sold in the Australian market by Australian industry has dropped by 5% over the injury period, while imports from China (excluding Jiashilun) have risen 24% and the size of the Australian market as a whole has risen 2%;
- it is likely Australian industry would have had a higher sales volume, if not for the presence of dumped and subsidised goods from China in the Australian market;
- the goods exported to Australia from China at dumped and subsidised prices have undercut Australian industry's prices during the investigation period by up to 42%;

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- the price of the goods exported to Australia from China would not have undercut the Australian industry's prices, at least to the same extent, if the goods were not dumped or subsidised;
- throughout the investigation period, the goods imported from China were the lowest priced imports in the market;
- the volume and level of undercutting of the Australian industry's prices by the goods imported from China (excluding Jiashilun) has prevented the Australian industry from obtaining a higher selling price for its painted steel strapping;
- the Australian industry would have been able to increase its prices in a market not affected by the goods exported to Australia from China at dumped and subsidised prices. Such increases would have reflected positively on the Australian industry's profits and profitability over the investigation period;
- the injury caused by goods exported to Australia from China at dumped and subsidised prices can be separated from other potential causes of injury;
- other potential causes of injury were found not to have broken the causal link between the imports of dumped and subsidised goods and the injury suffered by Australian industry; and
- the link between the goods exported from China at dumped and subsidised prices, in the form of volume, price and profit effects, has had a negative impact on the Australian industry's decisions in relation to other economic factors.

The Commission has found that, in respect of goods imported from Vietnam:

- the volume of dumped goods exported to Australia from Vietnam is not negligible;
- 93% of dumped goods exported to Australia from Vietnam were dumped at negligible levels;
- imports from Vietnam (excluding Sam Hwan) have dropped 63% over the injury period, compared to a 5% drop in sales for Australian industry and an increase of 2% for the size of the Australian market as a whole;
- the goods exported to Australia from Vietnam at dumped prices have undercut Australian industry's prices during the investigation period by up to 24%;
- the price of the goods exported to Australia from Vietnam would not have undercut the Australian industry's prices to this extent if the goods were not dumped;
- while goods exported to Australia from Vietnam have undercut Australian industry prices, it is unlikely that the volume and level of undercutting would have prevented the Australian industry from obtaining a higher selling price for its painted steel strapping.

In light of the above, the Commission has determined that Australian industry has suffered material injury caused by dumped and subsidised imports from China in the form of:

- loss of sales volume;
- price suppression;
- loss of profit;
- reduced profitability;
- reduced revenue;
- a decline in capital investment;
- a decline in ROI; and



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- reduced capacity utilisation.

However, the Commission is not satisfied that Australian industry has suffered material injury as a result of the exports of the goods at dumped prices from uncooperative exporters from Vietnam.

The Commission's analysis for this chapter is at **Confidential Attachments 15 and 16**.

## **10 WHETHER DUMPING AND/OR SUBSIDISATION MAY CONTINUE**

### **10.1 Preliminary finding**

The Commission is preliminarily satisfied that, among other things, dumping and subsidisation may continue in relation to the export of the goods by exporters from China, other than Jiashilun.

### **10.2 Introduction**

To publish a notice under sections 269TG(2) and/or 269TJ(2) the Minister must be satisfied that, among other things, dumping and subsidisation may continue.

In assessing whether dumping and subsidisation may continue, the Commissioner considers the term 'may' to mean 'possible'.

In assessing whether dumping and/or subsidisation may continue, the Commissioner considers prior evidence of dumping and/or subsidisation to be a relevant consideration.

The Chinese exporter, Jiashilun, was found not to have dumped the goods during the investigation period or received subsidies at a rate above negligible levels. However, uncooperative exporters from China were found to have exported the goods to Australia at dumped and subsidised prices.

The Vietnamese exporter, Sam Hwan, was found to have exported goods at dumped prices to Australia, albeit at a negligible margin. Uncooperative exporters from Vietnam were found to have exported the goods to Australia at dumped prices. However, the Commission did not find that because of the dumping, material injury has been, or is being caused, or is threatened to the Australian industry producing like goods.

As discussed further in chapter 14, the Commission proposes to terminate the investigation in relation to Jiashilun and Sam Hwan.

Accordingly, the analysis in this chapter does not apply to these two exporters, nor does it include a consideration of other exporters from Vietnam.

### **10.3 Whether dumping may continue**

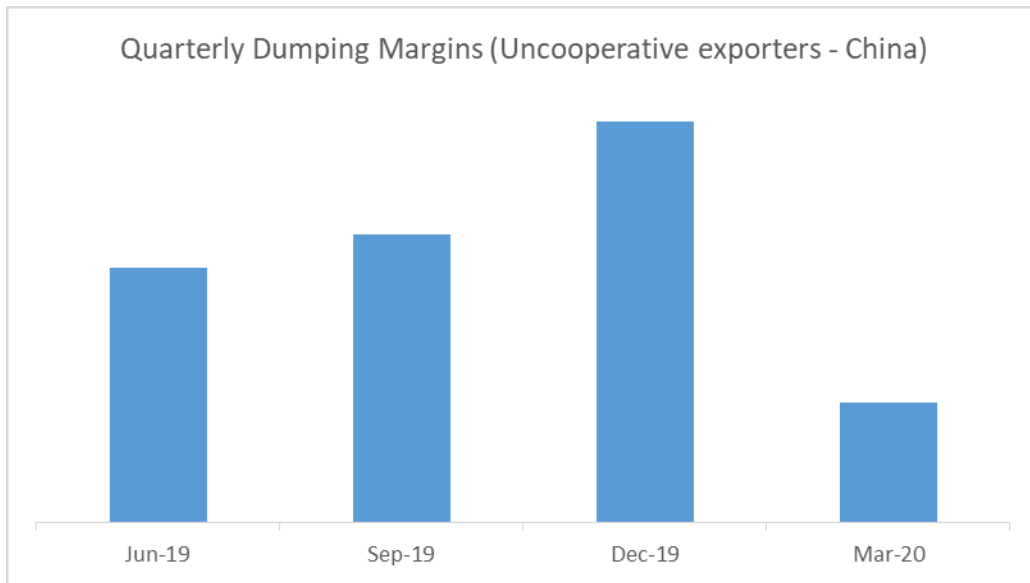
The Commission has found that uncooperative exporters from China have exported the goods to Australia during the investigation period at dumped prices, with a dumping margin of 11.5%.

To assess whether dumping may continue, the Commission has had regard to the following:

- movements in the dumping margin;
- export volumes and prices following the investigation period;
- domestic prices in the subject markets;
- Australian market trends; and
- production capacity.

### 10.3.1 Movements in the dumping margin

The figure below depicts the quarterly Chinese uncooperative exporter dumping margins calculated over the investigation period.



**Figure 23 –Chinese All other Exporters Quarterly Dumping Margins<sup>74</sup>**

The figure indicates consistent and sustained dumping margins from China over the investigation period, although it is noted that there is a drop in the dumping margin in the final quarter.

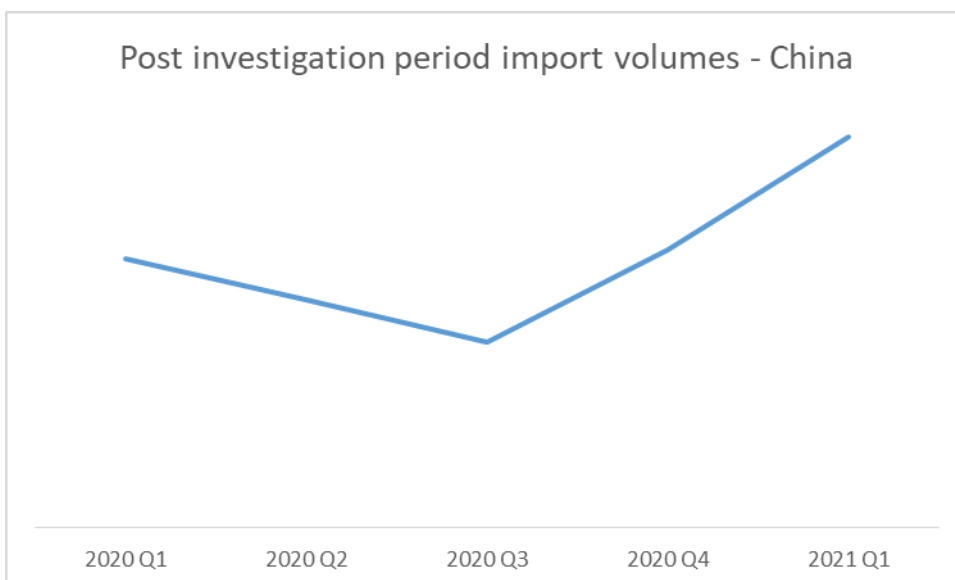
### 10.3.2 Export volumes and prices following the investigation period

The figure below depicts the volume of imports from China in the year following the investigation period.

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<sup>74</sup> SEF 553 – Confidential Attachment 12

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**Figure 24 – Import volumes from subject countries following the IP<sup>75</sup>**

Import volumes dropped significantly in the first quarter following the investigation period, which the Commission considers is due to the initial impact of the covid-19 pandemic. However, it can be seen that import volumes have consistently increased over the remainder 2020, to reach almost pre-pandemic levels in the first quarter of 2021.

The figure below depicts the weighted average FOB export price of imports from China in the year following the investigation period.



**Figure 25 – Export prices from subject countries following the IP<sup>76</sup>**

Export prices for Chinese goods increased slightly in the June 2020 quarter before returning to pre-pandemic levels in the first quarter of 2021.

<sup>75</sup> The March 2021 quarter only includes data up to 26 March 2021.

<sup>76</sup> The March 2021 quarter only includes data up to 26 March 2021.

### 10.3.3 Domestic prices

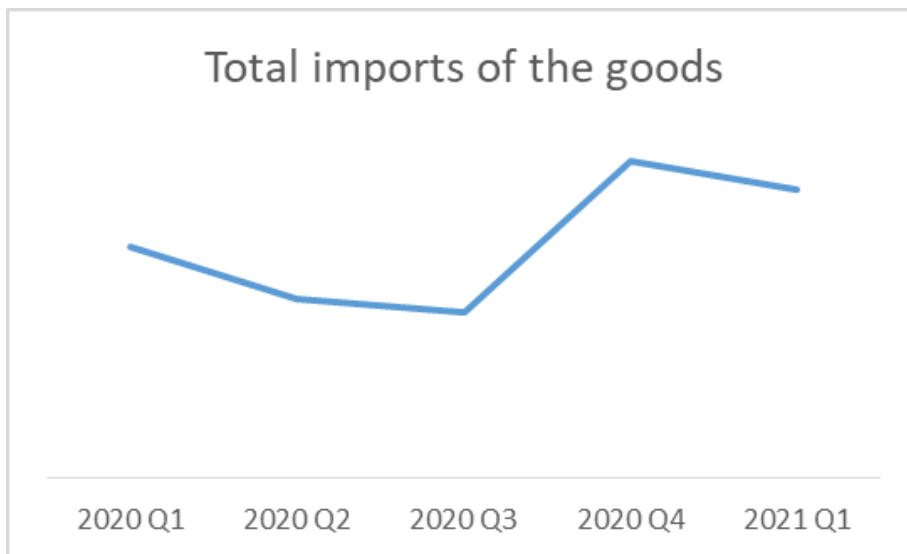
As discussed in chapters 6.3.5 and 6.4, the Commission has found that a particular market situation exists in relation to the domestic Chinese painted steel strapping market in the investigation period, such that sales of goods in that market are not suitable for determining a price under section 269TAC(1). Accordingly, the Commission constructed a normal value for goods exported to Australia from China, as set out in chapter 6.5. The Commission has not been presented with any evidence which would indicate that a similar finding would not be made in respect of Chinese normal values following the investigation period.

### 10.3.4 Australian market trends

It is difficult to draw any significant conclusions regarding the Australian market for the goods in light of the covid-19 pandemic impacting Australian and global trade following the investigation period. However, the Commission does note the following:

- As discussed in chapter 5.3.3, demand for the goods is driven by output of its customers, primarily food products, steel manufacturers, raw material ores, paper, timber, wool and recycling.
- Manufacturing in Australia has returned to levels similar to before the pandemic and mining has grown;<sup>77</sup>
- Australian Gross Domestic Product has increased by more than 6% over the last two quarters and is down by 1.1% compared to the December 2019 quarter.<sup>78</sup>

The figure below depicts total imports of the goods following the investigation period.



**Figure 26 – Total imports of the goods from all countries**

<sup>77</sup> ABS, Business Indicators, Australia – Quarterly estimates of private sector sales, wages, profits and inventories, December 2020.

<sup>78</sup> ABS, Australian National Accounts – National Income, Expenditure and Product, December 2020.

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It indicates that imports of steel strapping have recovered from a drop during the middle of 2020 and are now higher than where they were at the end of the investigation period.

### **10.3.5 Production capacity**

Based on information provided by the cooperating Chinese exporter, there is excess production capacity held by Chinese producers of the goods.

### **10.4 Whether subsidisation may continue**

The Commission has found that a countervailable subsidy has been received by non-cooperative entities in respect of the goods exported to Australia, at a margin of 42.6%. These entities did not provide a REQ, did not request a longer period to provide a response within the legislated period or did not address requests for further information where an REQ has been provided. The Commission has considered, where possible, the nature and the qualifying criteria of the various subsidy programs investigated. In the absence of information to the contrary, the Commission has assumed that these entities will continue to receive countervailable subsidies identified in chapter 7.

### **10.5 Commissioner's assessment**

Based on the available evidence, the Commissioner is satisfied that exports of the goods may continue in the future at dumped and subsidised prices from China, based on the reasons below:

- Dumping margins were found in each quarter of the investigation period, with no indication that margins were consistency decreasing;
- Import volumes from China following the investigation period dropped as a result of the covid-19 pandemic, but in the March 2021 quarter have rebounded to pre-pandemic levels;
- Export prices for China are at the same level in the March 2021 quarter as at the end of the investigation period
- There is no indication of normal values decreasing following the investigation period. Combined with decreasing export prices, this indicates dumping margins are unlikely to decrease;
- The Australian market for the goods after declining immediately following the investigation period appears to have recovered, with total imports of the goods at higher levels in the March 2021 quarter than at the end of the investigation period;
- There is excess production capacity in China for the goods; and
- The Commission has received no evidence that the level of subsidisation received by Chinese exporters will change.

The Commission's analysis for this chapter is in **Confidential Attachment 19**.

## 11 NON-INJURIOUS PRICE

### 11.1 Preliminary finding

The Commissioner proposes to recommend to the Minister that the Minister is not required to have regard to the lesser duty rule as:

- that there is a situation in the Chinese domestic market that renders domestic selling prices unsuitable for determining normal value under section 269TAC(1); and
- the NIP is not less than the normal values ascertained for exporters of the goods from the subject countries.

### 11.2 Introduction

The NIP is defined in section 269TACA as “the minimum price necessary to prevent the injury, or a recurrence of the injury” caused by the dumped or subsidised goods, the subject of a dumping duty notice or a countervailing duty notice. The Commission will generally derive the NIP from the Australian Industry’s unsuppressed selling price (USP).

### 11.3 Legislative framework

Where the Minister is required to determine the IDD, section 8(5B) of Dumping Duty Act applies. Where the Minister is required to determine both ICD and IDD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

Sections 8(5B), 8(5BA) and 10(3D) require the Minister to have regard to the ‘lesser duty rule’ when determining the ICD and IDD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. In respect of concurrent dumping and countervailing notices, the lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty, such that the sum of the export price of the goods ascertained for the purposes of the notices, the ICD and IDD, do not exceed the NIP.

However, pursuant to sections 8(5BAA), 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:<sup>79</sup>

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii);
- there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises;<sup>80</sup>

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<sup>79</sup> Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty and sections 10(3DA)(a) to (c) of the Dumping Duty Act concern the calculation of countervailing duty.

<sup>80</sup> As defined in the *Customs (Definition of “small-medium enterprise”) Determination 2013*.

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- if a countervailing subsidy has been received in respect of the goods – the country in relation to which the subsidy has been provided, has not complied with Article 25 of the *WTO Agreement on Subsidies and Countervailing* for the compliance period.

Nonetheless, the Minister is not required to consider imposing a lesser amount of duty, but may still wish to exercise the discretion to do so.

### **11.4 Lesser duty rule**

As discussed in chapter 6, the Commission has found that there is a situation in the Chinese domestic market that renders domestic selling prices unsuitable for determining normal value under section 269TAC(1). Accordingly, the Commission considers that sections 8(5BAAA)(a) and 10(3DA)(c) of the Dumping Duty Act apply, and as a result, the Minister is not required to consider the lesser duty rule for the purposes of sections 8(5BA) and 10(3D) of the Dumping Duty Act.

The Commissioner recommends that the full dumping and subsidy margins be applied to any IDD and ICD taken in relation to the goods exported to Australia from China from all exporters.

### **11.5 Commission's assessment**

The Commission has found that there is a situation in the Chinese domestic market that renders domestic selling prices unsuitable for determining normal value under section 269TAC(1). Accordingly, the Commission considers that the Minister is not required to consider the lesser duty rule for exporters from China.

As the Commission has not found there to be dumped goods exported from Vietnam to Australia during the investigation period that have caused material injury to Australian industry, the Commission has not calculated a NIP for exports from Vietnam.



## 12 PROPOSED MEASURES

### 12.1 Preliminary finding

The Commissioner proposes to recommend to the Minister that anti-dumping measures, using the *ad valorem* duty method, be imposed in the form of a dumping duty notice and a countervailing duty notice in respect of dumping and countervailing duty that may become payable by importers of the goods from China, except for importers of the goods from Jiashilun.

### 12.2 Forms of dumping duty available

The forms of duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).<sup>81</sup>

The various forms of duty all have the purpose of removing the injurious effects of dumping and/or subsidisation. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. When considering which form of duty to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines) and relevant factors in the market for the goods.<sup>82</sup>

#### 12.2.1 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Minister exercises their powers to ascertain an amount for the export price and the normal value.

#### 12.2.2 Floor price duty method

The floor price duty method sets a “floor” – for example a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the NIP, whichever becomes applicable under the duty collection system.

#### 12.2.3 *Ad valorem* duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* duty is determined for the product as a whole. This means that a single ascertained export price is required when determining the dumping and/or subsidy

<sup>81</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>82</sup> Available on the Commission website.

margin. The ad valorem duty method is the simplest and easiest form of duty to administer when delivering the intended protective effect.

### **12.2.4 Combination duty method**

The combination duty method comprises two elements: the “fixed” element and the “variable” duty element. The fixed element is determined when the Minister exercises powers to “ascertain” an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* applied to the ascertained export price.

If the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount, i.e. the difference between the ascertained export price and the actual export price. It is called a “variable” element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

### **12.3 Commission’s consideration**

The Commission considers that the *ad valorem* duty method is the most appropriate method for determining the duty payable in this instance.

The *ad valorem* duty method is considered appropriate as:

- the Commission has not witnessed complex company structures amongst exporters of the goods from China and Vietnam, limiting the likelihood of circumvention behaviour through related party dealings;
- other forms of measures, such as the combination of fixed and variable duty method which rely on an ascertained export price, are considered unreliable as such a price would be based on limited exporter data available;
- the *ad valorem* duty method does not show the same variability in the ‘effective rate’ of the duty as export prices fluctuate that arises under the other methods; and
- the *ad valorem* duty method is the simplest and easiest duty required to deliver in the intended protective effect and may require less frequent reviews than other methods.

### **12.4 Proposed recommendations**

The Commissioner proposes that duties be calculated, in respect of any ICD and IDD that may become payable, using the *ad valorem* duty method.

A summary of the proposed recommendations and effective rates of interim dumping duty are shown in the table below.

<b>Exporter</b>	<b>Proposed duty method</b>	<b>Rate of ICD (%)</b>	<b>Rate of IDD (%)</b>
All other Exporters (China)	<i>Ad valorem</i>	42.6	11.5

**Table 19 – Summary of proposed effective interim dumping and countervailing duty**

## **13 PRELIMINARY AFFIRMATIVE DETERMINATION**

### **13.1 Introduction**

Under section 269TD, at any time not earlier than 60 days after the date of the initiation of an investigation into whether there are sufficient grounds for the publication of a dumping duty notice or countervailing duty notice, in respect of the goods subject to the application, the Commissioner may make a PAD. The Commissioner may make a PAD on being satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such notice subsequent to the importation into Australia of such goods.

In relation to a dumping investigation, the Commonwealth may, at the time of making a PAD (or at any later time during the investigation), require and take securities under section 42, in respect of any ICD or IDD that may become payable. The Commissioner may do this if satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

### **13.2 Finding**

In chapters 6 and 7, the Commissioner has found that goods exported from China during the investigation period were at dumped and subsidised prices. As outlined in chapters 8 and 9, the dumped and subsidised exports have caused material injury to the Australian industry producing like goods.

Accordingly, the Commissioner has decided to make a PAD under section 269TD and is satisfied that it is necessary to require and take securities under section 42 to prevent material injury to the Australian industry occurring while this investigation continues.

### **13.3 Securities**

The PAD, including the level of securities, will be publicly notified by way of an ADN.<sup>83</sup> Securities will be collected from All other Exporters of the goods from China (except for Jiashilun) and entered for home consumption on or after 23 April 2021.

The Commonwealth will calculate the amount of securities payable using the *ad valorem* duty method. The securities applicable to the goods exported to Australia will apply as follows:

Exporter	Proposed duty method	Rate of ICD (%)	Rate of IDD (%)	Combined rate (%)
All other Exporters (China)	<i>Ad valorem</i>	42.6	11.5	54.1

**Table 20 – Summary of dumping securities**

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<sup>83</sup> In accordance with sections 269TD(4)(a) and 269TD(5).

## 14 TERMINATION AND EFFECT FOR CERTAIN EXPORTERS

### 14.1 Termination

Section 269TDA sets out the circumstances in which the Commissioner must terminate an investigation in its entirety, or solely in respect of a specific exporter. Section 269TDA provides for rules of termination on the basis of volumes and scale of dumping by countries and exporters.

Based on the findings in this SEF, and subject to any submissions received in response, the Commissioner proposes to terminate the investigation in relation to:

- Jiashilun, on the basis that the level of dumping and subsidisation received by Jiashilun was negligible in relation to the goods, in accordance with sections 269TDA(1)(b)(i) and 269TDA(2)(b)(ii); and
- Sam Hwan, on the basis that the level of dumping by Sam Hwan was negligible in relation to the goods, in accordance with section 269TDA(1)(b)(ii).

### 14.2 Exporters that will not be subject to the dumping duty notice

As discussed in chapter 9, the Commissioner is not satisfied that Australian industry has suffered material injury as a result of the exports of the goods at dumped prices from uncooperative exporters from Vietnam. Accordingly, the Commissioner proposes not to recommend measures in respect of exports from Vietnam, which will not be listed in a dumping duty notice for the goods.

**APPENDICES AND ATTACHMENTS**

<b>Non-confidential Appendix A</b>	Assessment of particular market situation – China
<b>Non-confidential Appendix B</b>	Assessment of particular market situation – Vietnam
<b>Non-confidential Appendix C</b>	Assessment of alleged subsidy programs – China
<b>Confidential Attachment 1</b>	Australian market analysis
<b>Confidential Attachment 2</b>	CTM breakdown
<b>Confidential Attachment 3</b>	Raw material cost analysis and benchmark calculation
<b>Confidential Attachment 4</b>	Jiashilun Export Price
<b>Confidential Attachment 5</b>	Jiashilun CTMS (Replacement)
<b>Confidential Attachment 6</b>	Jiashilun Normal Value (Replacement)
<b>Confidential Attachment 7</b>	Jiashilun Dumping Margin (Replacement)
<b>Confidential Attachment 8</b>	Sam Hwan Export Price
<b>Confidential Attachment 9</b>	Sam Hwan CTMS
<b>Confidential Attachment 10</b>	Sam Hwan Normal Value
<b>Confidential Attachment 11</b>	Sam Hwan Dumping Margin
<b>Confidential Attachment 12</b>	All other exporters Dumping Margin calculation
<b>Confidential Attachment 13</b>	Jiashilun Subsidy calculation
<b>Confidential Attachment 14</b>	All other entities subsidy analysis
<b>Confidential Attachment 15</b>	Economic condition of Australian industry
<b>Confidential Attachment 16</b>	Causal link analysis
<b>Confidential Attachment 17</b>	Importation price model
<b>Confidential Attachment 18</b>	Price undercutting analysis
<b>Confidential Attachment 19</b>	Continuation of dumping analysis
<b>Non-confidential Attachment 1</b>	GOV Steel Industry Plan 2015-2025
<b>Non-confidential Attachment 2</b>	GOV Decision 4977/QD-BCT 2018

## APPENDIX A ASSESSMENT OF PARTICULAR MARKET SITUATION – CHINA

This appendix sets out the Commission's assessment of whether a particular market situation existed in the Chinese market for painted steel strapping during the investigation period.<sup>84</sup>

### A1 The GOC role in the Chinese steel market

#### A1.1 Overview

The Chinese economy in general has undergone significant economic structural reforms to transition towards greater liberalisation of trade and foreign direct investment inflows and outflows. However, the role of government at all levels in the Chinese economy, controlling trade and foreign direct investment liberalisation for social and economic purposes, has created a hybrid system in China where decisions of the market are heavily influenced by government as opposed to conditions of competition. Simply put, Chinese firms selling and purchasing in China's steel markets set prices and make purchasing decisions that are influenced by the directives and policies of the GOC, competition with SOEs that reflect the economic, social and fiscal goals of the GOC as well as private firm competition on price, product and market share.

#### A1.2 GOC policies affecting the steel industry

The Chinese steel industry is of significant importance to China's national, economic and social security. Growth in this industry has been dependent on structured investment in, and funding of, fixed assets in SOE steel mills, steel production output for massive infrastructure and urbanisation projects supported by the GOC and export oriented trade.

#### A1.3 Initiatives influencing Chinese steel markets

In order to achieve such significant steel manufacturing output to achieve supply-side economic growth and reform, the GOC manages an array of subsidy programs, soft lending and credit facilities, preferential loans, land grants and capacity controls to drive domestic output and consumption of steel. In recent years, China's steel industry has played an important role in its economic structural reform and as such, changes in response to global issues and concerns are slow and incremental. The Commission understands that the GOC has a preference for incremental reform so as not to induce "shock" changes and sudden reforms in its steel industry, which has the potential to risk the livelihoods of directly employed workers and workers employed in related industries.

Specific initiatives, implemented to address imbalances in the Chinese steel market broadly, include the Central Government's supply-side reform initiatives, *Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry* (GOC

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<sup>84</sup> The Commission's assessment of proper comparison is set out in respect of each exporter in 6.4.

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Advice) and *The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry* (GOC Opinions).

The GOC Advice proposed that SOE capacity be reduced by 100 to 150 million tonnes by 2020, via the banning of new capacity building and elimination of what are colloquially known as “zombie mills”.<sup>85</sup> The Central Government had also pledged a RMB 100 billion fund for employee compensation, social security payments and plant closure incentives in the coal and steel sectors.<sup>86</sup>

The GOC Opinions forbid the registration of new production capacity in any form and requires that any production that does not meet environmental, energy consumption, quality, safety or technical standards be taken offline.<sup>87</sup>

The Commission recognises the GOC’s attempts to restructure and reorganise the industry to manage excess capacity, oversupply and environmental concerns. Examples of these capacity management measures announced include tightening bank lending to smaller mills, industry consolidation through mergers and acquisitions and use of stricter environmental requirements to forcibly shut down capacity.<sup>88</sup> While noting these efforts are targeted at correcting current imbalances and resulting distortions, the Commission considers them to be evidence of the extent of the GOC’s involvement within and influence over the broader steel industry during the investigation period.

The key concern with zombie mills is that they reflect capacity that is idle rather than capacity that has been removed from the market permanently. This means that, while the temporary removal of this capacity has helped support competitive market conditions, those same plants have potential to return to production when higher steel prices prevail, leading to further distortions.<sup>89</sup> The extent of this issue is reflected in the concern that a significant amount of the capacity removed in 2016 was already idle, and that the real capacity permanently removed is estimated to be in the range of 12 million to 20 million tonnes per year, compared to the reported 65 million tonnes.<sup>90</sup> As at April 2017, it was reported that China had an estimated 650 million tonnes of overcapacity, and favourable market conditions would likely extend the lifespan of zombie companies, delaying the GOC’s steel industry reforms.<sup>91</sup>

In addition, local governments have not fully implemented the central directives on capacity reduction, with reports that steel mills engage in “capacity swapping” by moving

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<sup>85</sup> Liu. H & Song. L, 2016, pp338-339. AME Group, Steel 2016: June Quarter, Strategic Market Study. 2016, Q2. p.9. These mills would be shut down under normal competitive market conditions, due to either poor profitability or insolvency.

<sup>86</sup> Duke Centre on Globalisation, Governance & Competitiveness (Duke Centre), 2016. *Overcapacity in Steel: China’s role in a global problem*, September 2016, p.38.

<sup>87</sup> KPMG, 2016. The 13th 5 Year Plan: China’s Transformation and Integration with the World Economy, p.29. Sourced from GOC Opinions, State Council, 4 February 2016.

<sup>88</sup> Platts, 2016. Global Market Outlook, Steel Business Briefing. January 2016, p.14.

<sup>89</sup> Platts, 2017. Global Market Outlook, Steel Business Briefing. January 2017, p.10.

<sup>90</sup> Ibid.

<sup>91</sup> DBS Asian Insights, China’s steel sector supply reform, April 2017, p.5.

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capacity to more favourable regions, thereby maintaining or increasing the mill's capacity.<sup>92</sup>

The effectiveness of the GOC's attempts to address overcapacity through mergers and acquisitions have been constrained by:

- the replacement of older mills with new larger and more efficient mills; and
- closing smaller mills to offset the commissioning of new larger mills.

While this is likely to improve the industry's structure over the longer term, its impact to date has been to increase production and exacerbate the existing structural imbalances. For example, the announcement of the creation of the BAOWU Steel Group indicated that it would decommission 2.5 million tonnes of capacity to address overcapacity, however, it also commissioned nine million tonnes of new capacity at its Zhanjiang facility.<sup>93</sup> In 2019, BAOWU Steel Group expected to increase its annual steel production capacity by twenty million tonnes after an agreement to merge with Magang (Group) Holding Co Ltd.<sup>94</sup>

In citing the GOC's ongoing interventions within the domestic steel industry, it is the Commission's view that these attempts to address existing structural imbalances have had limited success to date. Constraints in the effectiveness of these initiatives not only relate to the extent of the existing imbalances in the industry, but also difficulties in coordinating activities between central, provincial and local levels of government. The resistance of provincial and local governments to closing down mills relates to their role as major employers, sources of tax revenue and providers of social services within their respective regions.<sup>95</sup> Specific examples of these issues include the reliance of their tax systems on business revenue (including production based VAT) and gross domestic product (GDP) oriented performance measures which encourage over-investment.<sup>96</sup>

### A1.4 Industry planning guidelines and directives

The central body responsible for developing and administering planning directives, and providing overarching approval of large scale investment projects within China is the National Development and Reform Commission<sup>97</sup> (NDRC). It is the Commission's view that directives from the NDRC, as the GOC's central planning authority, would thus be central to both industry specific 'five-year plans' and the planning decisions of all levels of government more generally. More explicit enforcement mechanisms are reflected in the *Notice of the State Council on Further Strengthening the Elimination of Backward Production Capabilities and Guidelines* (the GOC Guidelines).<sup>98</sup> Mechanisms to address non-compliance include:

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<sup>92</sup> Steel Guru, [China to further tighten steel capacity swapping rules - NDRC](#) (10 May 2019) and [China to Halt Capacity Swaps Project Approvals in Steel Industry](#) (24 January 2020).

<sup>93</sup> Platts, 2016. Global Market Outlook, Steel Business Briefing. June 2016, p.11.

<sup>94</sup> Reuters, 2019, '[China Baowu Steel to take majority stake in rival Magang](#)'.

<sup>95</sup> Platts, 2016. Global Market Outlook, Steel Business Briefing. April 2016 p.16.

<sup>96</sup> Duke Centre, *op cit* (172), p.29.

<sup>97</sup> [National Development and Reform Commission](#).

<sup>98</sup> [*Notice of the State Council on Further Strengthening the Elimination of Backward Production Capacities*] State Council (China), Notice no. 7, 6 April 2010 ('GOC Guidelines').



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- revoking of pollutant discharge permits;
- restrictions on financial institutions providing new credit support;
- restrictions on examination and approval of new investment projects;
- restrictions on approval of new land for use by the enterprise; and
- restrictions on issuing of new, and cancelling of existing, production licenses.

According to reports, the GOC Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments. More implicit enforcement mechanisms are reflected by the regulatory powers of bodies, such as the Ministry of Industry and Information Technology. It is the Commission's understanding that such bodies maintain lists of companies that are deemed to be either compliant or non compliant with national standards on production, environmental protection, energy efficiency and safety. Those deemed non-compliant are to be closed.<sup>99</sup>

It is the Commission's view that the effectiveness of the above mentioned mechanisms are reflected in the responsiveness of industry groups and major companies to the GOC's various directives.

China adopted its 13th *Five-Year Plan for National Economic and Social Development* (the Plan) on 15 March 2016. The Plan outlines China's goals, principles and targets for infrastructure, the environment, financial services, health and social and economic development for the five years to 2020. The Plan has a strong emphasis on supply-side structural reform that promotes the upgrade of industrial structures, strengthening market oriented reforms, reducing industrial capacity, inventory, financial leverage and costs, and correcting structural shortcomings.<sup>100</sup> The Plan remained current in the review period.

To support the Chinese steel industry's development in line with the Plan, the *Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)* (the Upgrade Plan) was developed. The Upgrade Plan proposed to raise the average annual growth rate of industrial added value from 5.4% in 2015 to 6% by 2020, raise the capacity utilisation rate from 70% in 2015 to 80% by 2020, and raise the industrial concentration in top ten producers from 34.2% in 2015 to 60% by 2020.<sup>101</sup> Examples of the Chinese steel industry's response to these directives was reflected in the restructuring of the BAOWU Steel Group. In 2019, BAOWU Steel Group was the largest producer of crude steel in China and the second largest worldwide.<sup>102</sup>

There have been a number of GOC policies, plans and initiatives relevant to the China steel industry published over many years, including the *National Steel Industry Development Policy* (2005), the *Blueprint for the Adjustment and Revitalisation of the Steel Industry* (2009) and the *2011-2015 Development Plan for the Steel Industry*

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<sup>99</sup> Office of the Chief Economist, Department of Industry, Innovation and Science, Resources and Energy Quarterly (December 2015), p. 47.

<sup>100</sup> KPMG, 2016. The 13th 5 Year Plan: China's Transformation and Integration with the World Economy, p.3. Sourced from GOC Opinions, State Council, 4 February 2016.

<sup>101</sup> King & Spalding, China Issues 13th Five Year Plan for the Steel Industry, Yan, Linga, November 22, 2016.

<sup>102</sup> [2020 World Steel in Figures](#), World Steel Association, May 2020.

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(2011).<sup>103</sup> As these plans have ended, the Commission's view is that these have been largely superseded by further policies and plans.

Some of the key themes and objectives of major GOC planning guidance and directives used to influence the structure of the Chinese steel industry include:

1. Steel Industry Adjustment Policy (2015 Revision)
  - upgrading product mix;
  - rationalising steel production capacity;
  - adjustments to improving organisational structures;
  - energy conservation, emission reductions, environmental protection;
  - production distribution;
  - supervision and administration;
  - guiding market exit;
  - methods of orientation and oversight of mergers and reorganisations;
  - consolidate number of steel companies; and
  - lift capacity utilisation rates to 80% by 2017.
  
2. Circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy
  - promoting of economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion; and
  - intensify the implementation of industrial policies related to the iron and steel sector to strengthen the examination thereof and to improve them in practice.
  
3. State Council Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation<sup>104</sup>
  - SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach;
  - state-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programmes, to strengthen their operations, and allow non state-owned capital to play a role, while ensuring the state-owned capital's leading position; and
  - related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, non-ferrous metal, shipping, construction materials, tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.
  
4. The Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)

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<sup>103</sup> In noting that some of the listed documents are now dated, the Commission considers that this further demonstrates long term involvement of the GOC within the Chinese steel industry.

<sup>104</sup> *General Office of the State Council on Promoting Central Enterprises: Guidance on Structural Adjustment and Restructuring*] State Council on Promoting Central Enterprises (China), Notice no. 56, 26 July 2016 [http://www.gov.cn/zhengce/content/2016-07/26/content\\_5095050.htm](http://www.gov.cn/zhengce/content/2016-07/26/content_5095050.htm).

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- removal of 100 to 150 million tonnes of capacity between 2016 and 2020;
  - raising of capacity utilisation rates to 80% by 2020; and
  - further industry consolidation leading to 10 largest producers accounting for 60% of production by 2020.
5. Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries (2013);<sup>105</sup>
  6. Three-Year Action Plan to Win the Blue Sky War (2018–2020, published 2018).<sup>106</sup>

In addition, broader industrial restructuring and reorganising directives of the GOC have an impact on the Chinese steel industry.<sup>107</sup>

In assessing the relevance of these planning guidelines and directives, the Commission notes the importance of the GOC's national five year plans which provide the overarching framework for the industry and local government plans. Regarding industry specific planning guidelines and directives, the Commission notes, but does not agree with, the GOC's previously expressed view that they are for guidance and are not enforceable.<sup>108</sup> Mechanisms through which the Commission considers the GOC is able to enforce these guidelines and directives include the presence and role of SOEs within the broader steel industry, the role of the NDRC and explicit enforcement mechanisms. The GOC, where it is also the majority owner of an SOE, can exert its influence through the appointment of board directors and chief executives.<sup>109</sup>

SOEs' significant share of total Chinese steel production, and propensity to follow government guidance and directives, ensures that the GOC is able to influence broader trends in industry capacity and steel production. Similarly, the NDRC, through its dual role of developing planning guidelines and directives and approving large scale investment projects, has the capacity to ensure that the broader objectives of the central government are implemented. Explicit enforcement mechanisms detailed within directives, such as the State Council notice on *Further Strengthening the Elimination of Backward Production Capabilities and Guidelines*, includes a range of sanctions, such as revocation of pollutant discharge permits, restrictions on the provision of new credit support, restrictions on the approval of new investment projects, and restrictions on the issuing of new and cancelling of existing production licenses.<sup>110</sup>

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<sup>105</sup> *Guiding Opinions on Accelerating the Merger and Acquisition and Reorganisation in Key Industries*] Ministry of Industry and Information Technology (China), Notice no. 16, 22 January 2013 [http://www.gov.cn/zwqk/2013-01/22/content\\_2317600.htm](http://www.gov.cn/zwqk/2013-01/22/content_2317600.htm).

<sup>106</sup> *Three-Year Action Plan to Win the Blue Sky War*] State Council (China), Notice no. 22, 27 June 2018 [http://www.gov.cn/zhengce/content/2018-07/03/content\\_5303158.htm](http://www.gov.cn/zhengce/content/2018-07/03/content_5303158.htm).

<sup>107</sup> For example, Notice of Several Opinions on Curbing Overcapacities and Redundant Constructions in Certain Industries and Guiding the Healthy Development of Industries (2009), Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013), Guiding Opinions on Resolving Serious Excess Capacity Contradictions (2013) and Directory Catalogue on Readjustment of Industrial Structure (2013 Amendment).

<sup>108</sup> *International Trade Remedies Branch Report No. 177* (REP 177), p.123 refers.

<sup>109</sup> Dong Zhang and Owen Freestone, *China's Unfinished State-Owned Enterprise Reforms* (2013), [Economic Roundup](#), The Treasury, Australian Government, issue 2, pp. 79-102.

<sup>110</sup> REP 177, p.128 refers.

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A further example of the GOC's use of planning guidelines and policy directives to achieve its objective can be seen in the GOC's *Standard Conditions of Production and Operation of the Iron and Steel Industry*. It is the Commission's understanding that this document sets out the minimum requirements for production and operation in the Chinese steel industry. Firms are incentivised to comply with the standard conditions, as doing so provides the basis for policy support. In contrast, firms that do not conform are required to reform, and if they still fail to conform, must gradually exit the market.<sup>111</sup>

### A1.5 Role and operation of SOEs

It has been observed that:

[SOEs] are an organic component of China's political and economic governance, although their contribution to the national output has shrunk to 40%. They are still considered to be substantial building blocks of the economy and act as a buffer against internal shocks and external threats.<sup>112</sup>

The Chinese economy is commonly described as a 'socialist market economy' as it features dominant SOEs co-existing with market capitalism and private enterprise.<sup>113</sup> Commentary provided with the 2019 Fortune 500 list indicates that of the 129 Chinese companies listed that year, SOEs accounted for 80% of the revenue earned, an increase of 4% on the previous year.<sup>114</sup>

Between 2010 and 2015, SOEs accounted for 44% of total Chinese steel production.<sup>115</sup> However this may have been as high as 60%.<sup>116</sup>

The World Bank has found that "state enterprises have close connections with the Chinese government. SOEs are more likely to enjoy preferential access to bank finance and other important inputs, privileged access to business opportunities, and even protection against competition."<sup>117</sup>

While the Commission does not consider that the presence of these entities alone causes markets to be distorted, it does consider that the presence of these entities is likely to result in the GOC's plans and directives being adhered to. The Commission also considers that the support provided to these entities by the GOC has enabled many of them to be operated on non-commercial terms for extended periods, significantly impacting supply and pricing conditions within the domestic Chinese market.<sup>118</sup>

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<sup>111</sup> Announcement on the *Standard Conditions of Production and Operation of the Iron and Steel Industry*. Included in the context of REP 177 on the [EPR for that case](#).

<sup>112</sup> Amir Guluzade, published on the World Economic Forum website, [How reforms have made China's state owned enterprises stronger](#) (21 May 2020).

<sup>113</sup> Asialink Business, [Overview of China's economy](#), accessed 21 July 2020.

<sup>114</sup> <https://fortune.com/2019/07/27/ceo-daily-july-27-sino-saturday/>.

<sup>115</sup> Liu. H & Song. L, 2016, p.349.

<sup>116</sup> Platts Steel Business Briefing (Platts), *Global Market Outlook*, January 2016, p.14.

<sup>117</sup> World Bank, China 2030: Building a Modern, Harmonious, and Creative Society, Report No. 96299 (March 2013), p.25.

<sup>118</sup> Anti-Dumping Commission, Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission August 2016 (Commissioner's Steel Report), p.47.

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Examples of these support mechanisms include government subsidies, support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees) and loans from state-owned banks.<sup>119</sup>

The Commission considers these mechanisms have supported the rapid expansion of steel production capacity in the SOE segment, in spite of repeated attempts by the Central Government to reduce the scale of steel production. It is also the Commission's view that these support mechanisms have created rigidities in the way recipient firms respond to price and profit signals and hence have significantly contributed to the excessive investment in capacity, excess steel production and distorted prices.

The significance of SOEs to the broader Chinese economy, including the steel industry, is also reflected in the State Council of China's *Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation* (the *Guidance*).<sup>120</sup> In introducing the *Guidance*, the State Council notes the important role of SOEs in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The *Guidance* also indicates that the State Council will deepen reform of SOE policies and arrangements to optimise state owned capacity allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation include the 'safeguard measures' theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures more generally.

In 2019, the GOC announced its intention to introduce a three year action plan on SOE reform, which reflects the continuation of the significance of SOEs to the Chinese economy.<sup>121</sup> The plan is designed to target mixed-ownership reform and strategic restructuring in sectors including coal and electricity, steel and non-ferrous metal. In recent years SOE reform has focussed on consolidation through mergers and acquisitions, which has (arguably) increased the state's presence in the market.<sup>122</sup>

The Commission considers that in combination with slow, incremental policy reform and the GOC's economic and fiscal stimulus packages, the role of SOEs in general, involved in "...capital intensive sectors that produce intermediate but highly tradable goods with important linkages to other upstream and downstream economic activities, such as the mining, chemicals or even electronics sectors..."<sup>123</sup> provides a buffer to the Chinese steel industry from external market forces. Those SOEs "...operating in upstream sectors... provide inputs to steel companies at below-market prices and in preferable terms. The same applies to downstream [SOE] companies buying steel products at above-market rates, thus providing support to steel companies. In addition, several concerns relate to the functioning of the financial sector in the presence of [SOEs]."<sup>124</sup>

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<sup>119</sup> Liu. H & Song. L, 2016, p.348.

<sup>120</sup> The State Council, notice advising the issuing of the [guideline on reorganization of SOEs](#) (July 2016).

<sup>121</sup> The State Council, notice [urging SOEs to increase profitability and deepen reform](#) (July 2020).

<sup>122</sup> Hong, Y (2019), 'Reform of State-owned Enterprises in China: The Chinese Communist Party Strikes Back', *Asian Studies Review*, pp.332-351.

<sup>123</sup> OECD Steel Committee, [State Enterprises in the Steel Sector](#) (20 December 2018), p.5.

<sup>124</sup> OECD Steel Committee, [State Enterprises in the Steel Sector](#) (20 December 2018), p.8.

## **A1.6 The role of the GOC in private firms**

In addition, the Commission understands that whilst not expressly compulsory under law, private firms engage with the policies and objectives of the GOC by aligning their commercial interests with industry directives and where relevant, appointing party members on supervisory boards.

## **A1.7 Direct and indirect financial support**

Examples of specific support programs provided to Chinese steel producers by the GOC, as identified by the American Iron and Steel Institute and the Steel Manufacturers Association, include preferential loans and directed credit, equity infusions and/or debt-to-equity swaps, access to land at little or no cost, government mandated mergers (permitting acquisition at little or no cost) and direct cash grants for specific steel construction projects.<sup>125</sup> Similar programs have been previously identified by the Commission in respect of the Chinese steel industry. It is the Commission's view that these programs have directly contributed to conditions within the Chinese steel industry during the investigation period by providing direct financial support to recipient steel producers.

The Commission notes that countervailable subsidies have been received by exporters from China (see chapter 7 of this Report). These subsidies and tax concessions reduce the operating costs of Chinese steel enterprises, confer a competitive advantage through the ability to offer steel products at lower prices, and increase the profitability of steel production.<sup>126</sup> It supports unprofitable producers, delaying or preventing their timely exit from the industry.

## **A1.8 Taxation arrangements**

The Commission has previously identified evidence of export taxes and export quotas on a number of key inputs in the steel making process including coking coal, coke, iron ore and scrap steel in *Anti-Dumping Commission Report No. 198*.<sup>127</sup> The Commission found that these measures would keep input prices artificially low and create significant incentives for exporters to redirect these products into the domestic market, increasing domestic supply and reducing domestic prices to a level below what would have prevailed under normal competitive market conditions.

The GOC has traditionally operated, amongst other taxation arrangements, a VAT and a VAT rebate system for certain exported goods which has undergone incremental change. In 2018 and 2019, the GOC implemented a further series of VAT reforms, which included lowering the VAT rates paid, as described in the table below.

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<sup>125</sup> Duke Centre, *op cit* (172), p.25.

<sup>126</sup> Commissioner's Steel Report, at [www.adcommission.gov.au](http://www.adcommission.gov.au) p.45.

<sup>127</sup> Concerning hot rolled plate steel exported from China, the Republic of Indonesia, Japan, the Republic of Korea and Taiwan; pp. 41-43.

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	Tier 1 VAT rate payable	Tier 2 VAT rate payable	Tier 3 VAT rate payable	Tier 4 VAT rate payable
Pre-1 July 2017	17%	13%	11%	6%
1 July 2017	17%	11%	6%	<i>Tier 4 revoked</i>
1 May 2018	16%	10%	6%	
1 April 2019	13%	9%		

**Table 21: VAT rate reform in China 2017 to 2019<sup>128</sup>**

The relevant rate for painted steel strapping during the investigation period was 13%.

Under the Chinese VAT system, VAT is paid on consumption of goods, including the inputs used in the production of steel. For goods produced and sold within China, the tax is ultimately paid by the final consumers of the particular good "...and successive tax payers are allowed to deduct the VAT they pay on their purchases while they account for VAT they collect on the 'value added'".<sup>129</sup> Because it is difficult for exporters to pass on the input VAT tax to export customers, eligible steel exporters have traditionally been compensated for input VAT paid during the production process via the payment of VAT rebates.

Through altering the VAT rebates and taxes applied to steel exports, the GOC is able to alter the relative profitability of different types of steel exports compared to domestic sales. For example, by either reducing VAT rebates or increasing export taxes on steel exports, the GOC is able to reduce the relative profitability of exports to domestic sales and hence provide significant incentives for traditional exporters to redirect their product into the domestic Chinese market. By using these mechanisms to alter the relative supply of particular steel products in the domestic market, the GOC is also able to influence the domestic price for those products.

During the investigation period, the applicable VAT rebate rates for exports of the goods was 10% from 1 April 2019 until 22 March 202, where it increased to 13%.

These changes, along with changes to the domestic VAT rate, resulted in applied VAT rates for exports of painted steel strapping of 3% for all of the investigation period, except for the final 9 days, where it was 0%. No export tariffs were payable on the goods, which when combined with the reduction in actual VAT paid on painted steel strapping exporters, would create a further incentive for export.<sup>130</sup>

<sup>128</sup> <https://www.oecd.org/tax/consumption/status-of-the-vat-reform-in-the-peoples-republic-of-china-2018.pdf> - 2019 rates verified for the goods in the investigation period.

<sup>129</sup> <https://www.oecd.org/tax/consumption/status-of-the-vat-reform-in-the-peoples-republic-of-china-2018.pdf>.

<sup>130</sup> GOC RGQ, Attachment D6 – Schedule of rates, EPR item 10

## A2 Competition in Chinese steel markets

One of the important features of the Chinese steel market is the lack of import competition such that price setting and competition in the domestic market is predominantly, if not solely, influenced by domestic firms.

The May 2020 US International Trade Administration (USITA) Global Steel Trade Monitor Report highlights that steel production in China is driven by its domestic demand and consumption, such that import penetration (as a function of consumption) in steel has remained low, at 1.6% in 2018 and 2019. The figure below shows the USITA analysis.

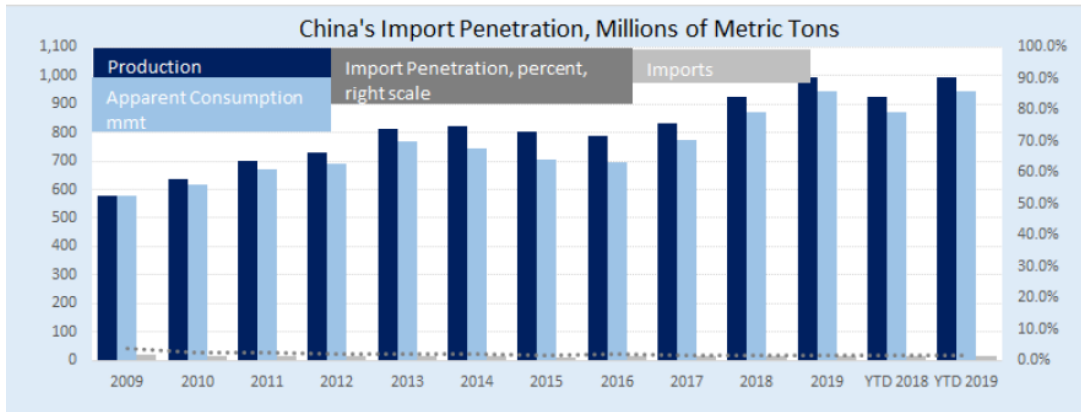


Figure 27: Steel imports in China<sup>131</sup>

Conversely, China's exports of steel represent approximately 62 million tonnes in 2019 or about 6% of its production.<sup>132</sup>

The Commission considers the GOC's involvement and influence over the steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry and the HRC/CRC and painted steel strapping markets. The issuance of planning guidelines and directives along with provisions of direct and indirect financial support<sup>133, 134</sup> creates a domestic market that benefits domestic producers and supports inefficient enterprises, but does not support access and therefore competition from foreign producers.

The Commission acknowledges that China's supply side structural reform targets the structure of production, to make it more efficient and to balance the supply side of China's economy with the demand side.<sup>135</sup> It is a "...suite of policies focus[ing] on reducing

<sup>131</sup> United States International Trade Administration, [Global Steel Trade Monitor, Steel Imports Report: China](#), May 2020.

<sup>132</sup> United States International Trade Administration, [Global Steel Trade Monitor, Steel Exports Report: China](#), May 2020.

<sup>133</sup> Support measures include stimulus programs, land and energy subsidies and soft lending policies.

<sup>134</sup> Duke Centre, *op cit* (172), p.24.

<sup>135</sup> <https://www.rba.gov.au/publications/bulletin/2018/dec/chinas-supply-side-structural-reform.html>



distortions in the supply side of the [Chinese] economy and upgrading the industrial sector.”<sup>136</sup> China’s steel industry has been a key focus of these policy reforms.

In short, the Chinese steel market is constructed such that preferential treatments, whether focussed at SOEs or not, creates a situation of “...competition for factors of production...”<sup>137</sup> rather than market driven competition based on price, service and value.

The Commission therefore considers that the GOC’s historic and continued involvement in the Chinese steel industry, through its policies, planning guidelines, plans and directives, materially contributed to its steel industry’s overcapacity, oversupply and distorted structure during the review period. It is the Commission’s view that these features have the effect of limiting foreign competition and that the price of HRC (and therefore CRC and painted steel strapping) would be substantially different in a market not characterised by GOC influence.

### **A3 GOC influence on the Chinese painted steel strapping market**

The Commission has found in the preceding section that the GOC exerts significant influence over the Chinese steel market. This section identifies the degree of that influence on HRC prices in China<sup>138</sup> and therefore the cost of the primary steel input feed in the manufacture of the goods by Chinese producers.

#### **A3.1 Comparison of raw material prices**

As a result of previous cases and after considering the evidence before it for this investigation, the Commission considers that normal competitive market conditions prevail in the Korean and Taiwanese domestic markets for HRC (and hence CRC) and that purchases of HRC in these markets are not influenced by prices in China.<sup>139</sup> The Commission therefore considers that purchases of HRC and CRC in these markets are suitable for comparison with purchases of HRC and CRC in China to quantify the effect of GOC influence on Chinese prices during the investigation period.<sup>140</sup>

The Commission notes that Jiashilun, the sole cooperating Chinese exporter, sourced CRC solely from Chinese steel mills.

In its analysis, the Commission has compared, on a monthly basis:

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<sup>136</sup> <https://www.rba.gov.au/publications/bulletin/2018/dec/chinas-supply-side-structural-reform.html>

<sup>137</sup> Dong Zhang and Owen Freestone, *China’s Unfinished State-Owned Enterprise Reforms* (2013), *Economic Roundup*, The Treasury, Australian Government, issue 2, pages 79-102, December; at p.91

<sup>138</sup> As noted in chapter 6.3.4, the Commission considers that CRC costs are closely related to the costs of HRC and are impacted to the same extent as HRC by any influence on the HRC market.

<sup>139</sup> See SEF 529 available on the Commission’s website.

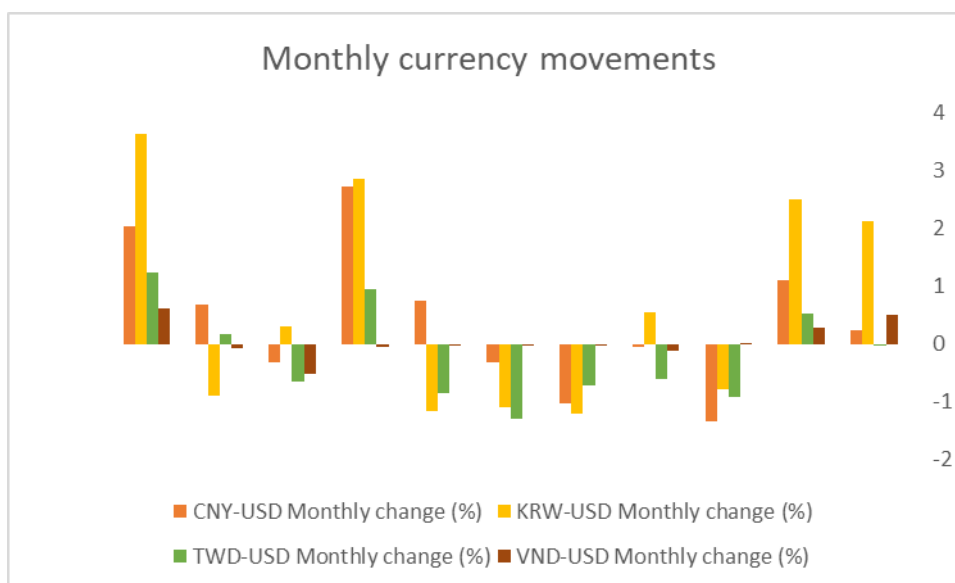
<sup>140</sup> The Vietnamese HRC market has previously been considered by the Commission to be subject to normal competitive market conditions, but due to the allegation in this investigation that there is a particular market situation in respect of Vietnamese exports of the goods, HRC purchases by Vietnamese producers have been excluded from this assessment.

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- weighted average CRC prices which Chinese exporters of the goods paid in the investigation period (EXW, no delivery, excluding VAT) with the Chinese benchmark for CRC as reported by MEPS International, a reputable independent supplier of steel market pricing data;<sup>141</sup>
- the Chinese CRC MEPS benchmark with the CRC MEPS benchmarks for Korea and Taiwan; and
- the Chinese HRC MEPS benchmark with the HRC MEPS benchmarks for Korea and Taiwan.

As all pricing data used by the Commission in its analysis was reported in the relevant local currency, the Commission has converted and compared prices in USD. The Commission performed a currency fluctuation analysis as part of this process to examine whether any such fluctuations may have distorted its price comparisons.

As the currency conversion has been made on an average monthly exchange rate, the Commission has not undertaken an assessment for short-term (i.e. on a daily basis) currency fluctuations. However, the Commission has assessed whether there has been a sustained currency fluctuation experienced between the USD and any of the local currencies used. The figure below depicts monthly movements in the exchange rate for each of the relevant currencies to the USD.



**Figure 28 – Monthly currency movements to the USD**

The currency with the greatest monthly movement against the USD is the Korean won (KRW). However, the largest monthly movement in the KRW-USD exchange rate is less than 4%, with no cumulative movement of greater than 5% over any two consecutive months. The Commission considers a fluctuation equal to or greater than 5% over an 8 week period to constitute a sustained currency movement. Accordingly, as there appears to have been no sustained currency fluctuation over the investigation period, the

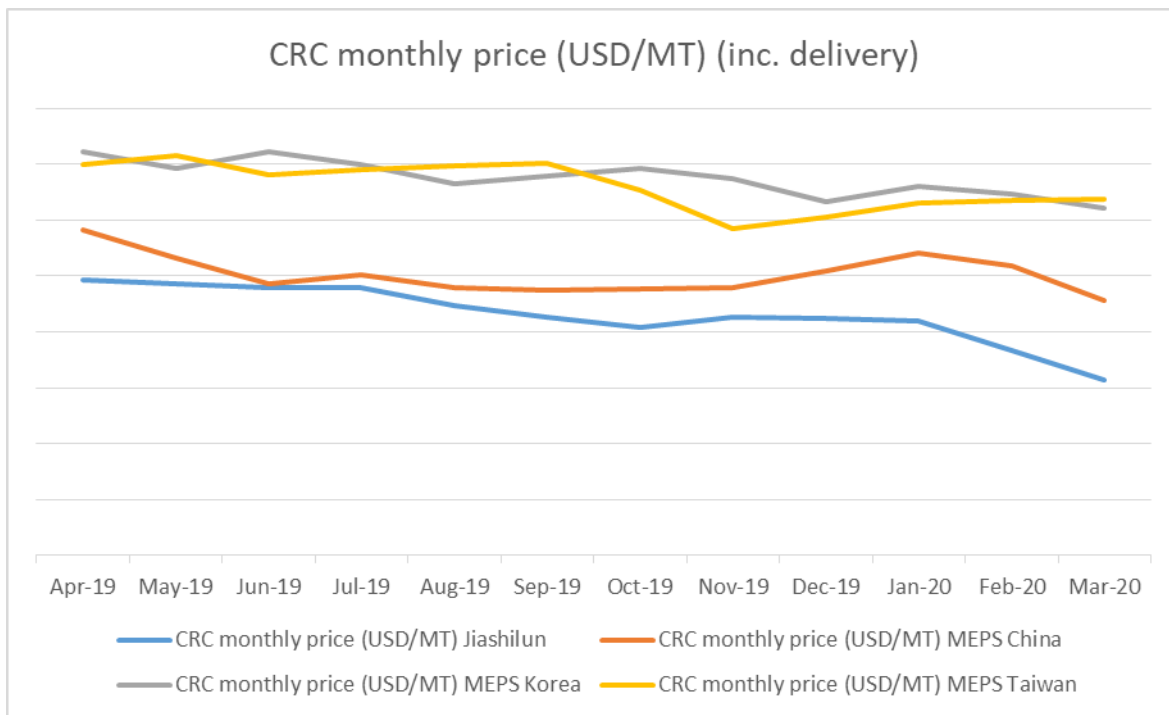
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<sup>141</sup> MEPS prices for HRC and CRC are reported EXW for China and EXW delivered for Japan, Korea and Taiwan. Where direct comparisons have been made, adjustments have been made for delivery costs.

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Commission is satisfied there a USD comparison between prices will provide ac result undistorted by currency movements.

The figure below depicts the monthly price of CRC over the investigation period as reported by MEPS for China, Korea and Taiwan and the price paid by cooperating Chinese producers of the goods. The prices have been adjusted to be at EXW including any delivery costs.



**Figure 29 – CRC prices – EXW, inc. delivery in USD/MT**

The figure shows that CRC prices in China, whether purchased by the cooperating Chinese producers or reported in the MEPS data, are substantially lower than equivalent prices for CRC purchased in Korea and Taiwan. The Commission considers that CRC prices in China, Korea and Taiwan all appear to follow a similar price trend. The Commission considers that the difference between prices represents the degree to which CRC prices in the Chinese domestic market have been distorted as a result of GOC influence.

The Commission’s raw material input analysis is provided at **Confidential Attachment 3**.

## APPENDIX B ASSESSMENT OF PARTICULAR MARKET SITUATION – VIETNAM

This appendix sets out the Commission's assessment of whether a particular market situation existed in the Vietnamese market for painted steel strapping during the investigation period.

### B1 Introduction

Signode Australia has claimed the GOV has intervened in the domestic Vietnamese steel industry through the following measures:

- Steel Master Plans;
- imposition of technical barriers and environmental standards;
- State ownership of large integrated Vietnamese steel manufacturers;
- domestic price stabilisation initiatives; and
- steel industry subsidisation.

The Commission has investigated each of these measures to determine the involvement of the GOV in each area and whether the impact of such involvement has materially distorted competitive conditions in the domestic market.

After reviewing the evidence available to the Commission, including questionnaires and submissions made in this investigation, as well as desktop research, the Commission has concluded that a particular market situation did not exist in respect of the domestic market for painted steel strapping market in Vietnam for the investigation period.

The Commission's consideration of the evidence is discussed below.

### B2 Previous investigations

#### B2.1 Foreign investigations

In its application, Signode Australia referred to previous findings by the International Trade Administration within the United States Department of Commerce (ITA) and the CBSA.

This included the ITA *Decision Memorandum for the Preliminary Determination in the Antidumping Duty investigation of Circular Welded Carbon-Quality Steel Pipe from Socialist Republic of Vietnam*, dated 31 May 2016.<sup>142</sup> In this determination, the ITA stated it considers Vietnam to be a non-market economy (NME). The determination states that:

*In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the*

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<sup>142</sup> <https://enforcement.trade.gov/frn/summary/vietnam/2016-13484-1.pdf>

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*administering authority. Therefore, we continue to treat Vietnam as an NME country for purposes of this preliminary determination.*<sup>143</sup>

The Commission notes that the determination by the ITA that Vietnam is considered a NME commenced on 8 November 2002<sup>144</sup> and continues in force as of its most recent determination regarding Vietnam.<sup>145</sup>

The other investigation referred to in the application was the CBSA investigation into cold-rolled steel from China, Korea and Vietnam. In its Statement of Reasons, dated 15 November 2018<sup>146</sup>, the CBSA examined whether the GOV substantially determines domestic prices in Vietnam and whether there was sufficient reason to believe that the domestic prices were not substantially the same as they would have been in a competitive market. This included an examination of the Steel Master Plan 2007-2015, the Steel Master Plan 2015-2025 and state ownership of suppliers and producers in the cold-rolled steel sector. The findings of the CBSA have been considered in its Commission's analysis of the Steel Master Plans and SOEs below.

### B2.2 Commission investigations

The Commission has considered previous claims for a particular market situation in Vietnam in the following investigations:

- Investigation 370 into Galvanised Steel exported from India, Malaysia and Vietnam (INV 370); and
- Investigation 416 into Steel rod in coils exported from Indonesia, Korea and Vietnam (INV 416).

In both investigations, the Commission did not find there to be a particular market situation present in respect of the relevant goods.

INV 370 concerned primarily a claim that the large proportion of imported HRC into Vietnam from China, where a particular market situation had been found, resulted in Chinese HRC prices influencing imported HRC prices from other countries, which as a consequence could have distorted selling prices of galvanised steel in Vietnam. **The Commission found no evidence suggesting such an influence, nor did the Commission find any evidence indicating that the costs of HRC used in the production of galvanised steel in Vietnam were not competitive market costs.**

In INV 416 it was alleged that the GOV used policies of differentiating import and export taxes for the upstream raw materials of coking coal, coke, iron ore and scrap steel to

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<sup>143</sup> Ibid, Section VI.A, "Discussion of Methodology", page 5

<sup>144</sup> *Memorandum for Faryar Shirzad, Assistant Secretary, Import Administration from Shauna Lee-Alaia, George Smolik, Athanasios Mihalakas and Lawrence Norton, Office of Policy through Albert Hsu, Senior Economist, Office of Policy, Import Administration, Jeffrey May, Director, Office of Policy, Import Administration, Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Determination of Market Economy Status ("Market Status Memo")*, dated 8 November 2002

<sup>145</sup> *Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Seamless Refined Copper Pipe and Tube from the Socialist Republic of Vietnam*, ITA, dated 26 January 2021

<sup>146</sup> CBSA, CRS 2018 IN, *Statement of Reasons, Cold-rolled steel from China, South Korea and Vietnam*, dated 15 November 2018, <https://cbsa-asfc.gc.ca/sima-lmsi/i-e/crs2018/crs2018-fd-eng.pdf>

create an artificial oversupply in the domestic market. It was also alleged that GOV influence on the costs of coking coal, coke, iron ore, scrap steel and electricity affected domestic prices for steel rod in coil. In the investigation, the Commission did not observe a decrease in upstream raw material export volumes, indicating that any differentiating tax policies did not result in an increase of domestic supply and a consequential price decrease. The Commission did find that electricity prices were suppressed due to GOV intervention. **However, the Commission did not agree with the assertion that domestic prices of steel rod in coil were less than they would have been otherwise as a result of such suppression. The Commission concluded that there was no market situation in respect of steel rod in coil.**

## **B3 The GOV role in the Vietnamese steel market**

### **B3.1 Steel Master Plans**

As detailed by the applicant, the GOV has in recent decades detailed their plans for their domestic steel industry in a two stage Master Plan, as below:

- The Steel Master Plan 2007-2015 (Decree No. 145/2007/QD-TTg)<sup>147</sup>; and
- The Steel Master Plan 2015-2025 (Decision No. 694/QD-BCT).<sup>148</sup>

The original Steel Industry Plan (2007-2015) contained production targets of 23 million tonnes of finished steel production by 2020 and 28 million tonnes by 2025.<sup>149</sup> This was to be achieved via large investment projects in a number of steel manufacturing facilities. The GOV sought to develop a domestic steel industry through a range of policy objectives including:

- (i) Protection of the domestic industry through technical barriers and environmental standards;<sup>150</sup> and
- (ii) Tasking various Ministries in the GOV with enacting various policies, including protecting the domestic steel manufacture against competition of foreign steel products and imposing import tax and export tax policies to step up investment in the development and restructuring of the steel industry in Vietnam.<sup>151</sup>

The Steel Master Plan 2007-2015 was superseded by the Steel Master Plan 2015-2025. The later plan details a diversification in domestic steel production into the production of hot-rolled, cold-rolled and galvanised steel.

- Article 1(5)(a) demonstrates a shift to greater diversification:

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<sup>147</sup> Available on the GOV legislative gazette at <http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=3341&Keyword=145/2007/QD-TTg>

<sup>148</sup> Non-confidential attachment 1

<sup>149</sup> Steel Master Pan 2007-2015, Article 1(3)(a)

<sup>150</sup> Ibid, Article 1(3)(c)

<sup>151</sup> Ibid, Article 2

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*Having incentive policies for combined steel plant projects. Prioritising the investment in projects of manufacturing pig iron, steel billets, hot rolled steel sheet, alloy steel, steel of high quality, large shaped steel and stainless steel...*

- Article 2(3) seeks to influence and control steel prices:

*People's Committee of centrally-affiliated cities and provinces shall: Direct the market management force in the area to coordinate with the authorities to strengthen the inspection and control of prices of steel products; prevent speculation, fake and ensure price stability steel in the area.*

In response to these claims by the applicant, the GOV submitted that national plans, such as the Steel Master Plans, **are not recognised as legal instruments of government to support a certain industry.** The plans are merely tools to provide forecast and guidance for the future development of the relevant industry.<sup>152</sup>

The GOV further asserted that the Steel Master Plans were made redundant from the beginning of 2019, as a result of further laws passed by the GOV. The first, Law on Planning No. 21/2017/QH14, decreed that manufacturing industries, including steel, are no longer the subject of master plans developed by the GOV. Following that law, the Ministry of Industry and Trade promulgated Decision No. 4977/QD-BCT to repeal specific products planning under the provisions on Law on Planning No. 21/2017/QH14, including Decision No. 694/QD-BC (otherwise known as the Steel Master Plan 2015-2025).<sup>153</sup>

The Commission has verified the claims of the GOV:

- Article 59(1)(d) of the Law on Planning No. 21/2017/QH14 provides that:

*The planning for investment in and development of specific goods, services and products, determination of the volume of goods, services and produced and sold products that is decided or approved is null and void no later than December 31, 2018.*

- Article 1 of Decision No. 4977/QD-BCT provides that the *Steel production and distribution system development planning up to 2020, with a vision to 2025* was annulled on 27 December 2018.

Accordingly, the Commission is satisfied that the legal basis for the Steel Master Plans referenced by the applicant are no longer in force.<sup>154</sup>

The Commission has not been provided with any evidence that there has been a continuing impact on the domestic Vietnamese steel industry as a result of the now rescinded Steel Master Plans, nor has the Commission been able to find any evidence of such an impact through its desktop research.

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<sup>152</sup> GOV RGQ, p230

<sup>153</sup> Ibid, p240

<sup>154</sup> Non-confidential Attachment 2 - GOV Decision 4977 \_ QD-BCT 2018 abolishes planning for specific products and services

### B3.2 Other GOV policies affecting the steel industry

Signode Australia submits that the GOV has identified the domestic steel industry as a “priority industry” specifically to “invest in the development of steel manufacturing for mechanical engineering such as steel sheets, shaped steel, and alloy steel.”

The applicant referred to GOV Circular 122 on price management and registration entered into force in 2010. This regulation enables the GOV via the Ministry of Finance to apply price controls when prices increase or decrease without “legitimate” reasons. The goods subject to pricing registration includes steel products, along with some raw material inputs including coal. The intent is to place price ceilings on products such that they are inconsistent with global changes in prices (including steel).

The Commission has examined Circular 122 and confirms that it relates to the implementation of price stabilization; powers and responsibilities of agencies, organizations and individuals in the elaboration, submission and appraisal of price plans and price decisions; price consultation dossiers and procedures; control for price factors; forms and procedures for price registration and declaration of prices of goods and services.<sup>155</sup> Such measures can be implemented where:<sup>156</sup>

- the price increase is higher than the increase in the price of the inputs, or higher than the cost price of imported goods;
- the price increases or decreases are not grounded, while the price constituents have no change, in the event of natural disasters, fires, epidemics, enemy sabotage, economic-financial crisis, or loss, temporary supply-demand balance or due to unfounded rumours of price increases or decreases; and
- unreasonable increase or decrease in prices due to abuse of monopoly position or market dominance.

Circular 122 also specifies that the measures relate only to certain goods and services, listed in Decree 75/2008.<sup>157</sup> Decree 75/2008 lists “Construction steel” as a good which is subject to price stabilisation.

However, both Decree 75/2008 and Circular 122 expired on 1 January 2014.

The GOV submitted that it does not have any policies or regulations which could be interpreted as impacting or exercising control over domestic market conditions in Vietnam for steel strapping or on the raw materials supplied in the manufacturer of steel strapping. The GOV states that:

*According to Article 11 of the Law on Prices, enterprises have the right to self-determine the prices of goods or services which they manufacture except for the goods subject to price determination by the GOV. Article 19 of this Law identifies goods subject to price determination by the GOV which include (i) goods or*

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<sup>155</sup> Article 1 of Circular No. 122/2010/TT-BTC, available at <http://vbpl.vn/TW/Pages/vbpg-toanvan.aspx?ItemID=25631>

<sup>156</sup> Ibid, Article 2(2)

<sup>157</sup> Available at <http://vbpl.vn/TW/Pages/vbpg-toanvan.aspx?ItemID=12714>



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*services under the monopoly supply by the state and (ii) important resources, and (iii) National reserve goods; products, services for public interest and service of public career using state budget. Steel strapping and all the upstream raw materials used to manufacture these products do not fall within three types of goods...*<sup>158</sup>

Article 19(3) provides a list of goods and services in which the GOV may define prices. This includes relevantly, “assigned under business and production plans by the State”. The Commission presumes that this would have impact steel prices when a Steel Master Plan was in force. However, as discussed previously, the Steel Master Plans have been rescinded. Accordingly, the Commission does not consider that the exception to “self-determination” of prices in Article 19 of the Law on Prices applies in respect of steel products.

Signode Australia submits that the GOV maintains control over projects and investment in key industries, including steel, such that projects may be halted or advanced at the discretion of the GOV. This level of influence does not enable the market to determine investment.

The GOV in its RGQ provides that investment projects related to the goods or any of the upstream raw materials used to manufacture the goods are subject to the same investment regulations as other sectors, in accordance with:<sup>159</sup>

- Law on Investment 67/2014/QH13;<sup>160</sup> and
- Decree 118/2015/ND-CP, which details the implementation of a number of articles of the Law on Investment.<sup>161</sup>

The Commission has reviewed Law on Investment 67/2014/QH13 and Decree 118/2015/ND-CP and is satisfied that investors may make their own investment decisions, in accordance with the relevant laws of Vietnam. The relevant laws restrict investment in certain areas, but do not appear to impose a level of power and control within the GOV over the steel industry such as to prevent market decisions on investment within the industry.

### **B3.3 Role and operation of SOEs**

Signode Australia submitted in its application that the GOV can enact its policy initiatives via its ownership in large steel industry companies. The large integrated steel producer Vietnam Steel (VN Steel) manufactures a range of steel products, including both inputs for and finished products and is operated in accordance with a charter from the GOV. The GOV has an active role in VN Steel’s management and daily operations.

In a paper by Nozomu Kawabata published in 2017, it was suggested it is debatable whether VN Steel has a significant role in the market relating to prices and production of

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<sup>158</sup> GOV RGQ, p236

<sup>159</sup> GOV RGQ, p237

<sup>160</sup> EPR 553, Item 11, Exhibit 46

<sup>161</sup> EPR 553, Item 11, Exhibit 2

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other firms. VN Steel does not receive GOV subsidies, and any GOV intervention may only be due to it falling into management crisis, itself a result of delays in corporate governance reforms.<sup>162</sup>

VN Steel has an annual finished steel production capacity of 2.5 million tonnes, with an additional capacity to produce 1.5 million tonnes of billet. This compares to Hoa Phat Group, a private company, which has an annual steel production capacity of finished steel products of 2.77 million tonnes.<sup>163</sup> Hoa Phat now considers itself the market leader, above VN Steel, in construction steel companies.

The GOV advised that the painted steel strapping industry in Vietnam is wholly owned by the private sector. The GOV does not have direct ownership or relation in any painted steel strapping product.

In light of the above, the Commission does not consider large scale GOV policy initiatives are enacted through SOEs.

### **B3.4 The role of the GOV in private firms**

No positive evidence was provided by the applicant of a GOV role within private firms.

In its verification of Vietnamese exporters, the Commission found that no business decisions were made by the GOV nor was there any GOV representation within senior management.

### **B3.5 Direct and indirect financial support**

As discussed in chapter B2.1, Signode Australia identified a previous finding by the CBSA of steel industry subsidisation in respect of cold-rolled steel exported from China, Korea and Vietnam.

The CBSA investigation found that the following subsidies were in place:<sup>164</sup>

- Program 1 – Exemptions of import duty
- Program 2 – Refunds of import duty
- Program 3 – Exemptions/Reductions of Land Rent, Tax and Levy
- Program 4 – Incentives on non-agricultural land use tax
- Program 5 – Export and import support in forms of preferential loan, guarantee and factoring
- Program 6 – Enterprise income tax preferences, exemptions and reductions
- Program 7 – Accelerated Depreciation of Fixed Assets
- Program 8 – Establishments Dealing with Exported Goods

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<sup>162</sup> KAWABATA Nozomu, 2017. "Decline and Restructuring of a State-owned Enterprise Group in the Vietnamese Iron and Steel Industry (Japanese)," Discussion Papers (Japanese) 17066, Research Institute of Economy, Trade and Industry (RIETI), available at <https://ideas.repec.org/p/eti/rdpsjp/17066.html>

<sup>163</sup> Hoa Phat Annual Report 2019, p37, available at <https://file.hoaphat.com.vn/hoaphat-com-yn/2020/05/annual-report-2019.pdf>

<sup>164</sup> CBSA numbering has been maintained.

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- Program 9 – Investment support
- Program 10 – Export Promotion Program
- Program 11 – Grants to Firms that Employ More than 50 Employees
- Program 12 – Assistance to Enterprises Facing Difficulties for Objective Reasons

Each program was found to be specific and therefore countervailable.

In its investigation, the CBSA received no response from the GOV to its request for information of the subsidies and so determined a subsidy rate on the facts available to it. The CBSA calculated the subsidy margin based on the difference between the estimated full costs of the subject goods, which are the costs of producing the goods plus allocated SG&A, and the estimated export price of the goods as declared on import documentation. From this, **the CBSA calculated a subsidy margin of 6.5% for Vietnamese exports of cold-rolled steel.**

The Commission has undertaken a high-level examination these subsidies and concluded that the following are no longer in force, as they were terminated in 2006 by GOV Decree 108/2006/ND-CP, as part of the process for Vietnam's accession to the WTO in 2007:

- Program 8 – Establishments Dealing with Exported Goods
- Program 10 – Export Promotion Program
- Program 11 – Grants to Firms that Employ More than 50 Employees
- Program 12 – Assistance to Enterprises Facing Difficulties for Objective Reasons

The Commission considers that the remaining programs are likely still in force. However, it has not undertaken a comprehensive review of these programs as no application was made by Signode Australia for countervailing of subsidies from Vietnam, nor does the Commission consider that the subsidy margin calculated by the CBSA, in circumstances where there was no GOV cooperation, is at a sufficiently high level to create a distortion in the Vietnamese domestic market for the goods.

### **B4 Competition in Vietnamese steel markets**

In 2020, Vietnam imported 13.3 million tons of steel, compared to 9.85 million tons of exports, valued at over USD\$8 billion and USD\$5 billion respectively.<sup>165</sup> The high level of import penetration indicates a high level of competition within the Vietnamese steel market.

No direct evidence of a lack of competition in Vietnamese steel markets was provided by the applicant. In addition, analysis of raw material costs shows that the costs paid by Vietnamese producers for CRC, the main input and driver of CTM for steel strapping, are in line with benchmark figures for other Asian countries which are as competitive markets.

With CRC being the major raw material input in steel strapping, a comparison of CRC costs between Sam Hwan and benchmark steel prices from MEPS gives an indication

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<sup>165</sup> Vietnamese Steel Association, *Vietnam steel market in January 2021*, available at <http://vsa.com.vn/tinh-hinh-thi-truong-thep-viet-nam-thang-1-2021/>

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into the relative CTM of steel strapping, for entities in Vietnam compared to other Asian countries.

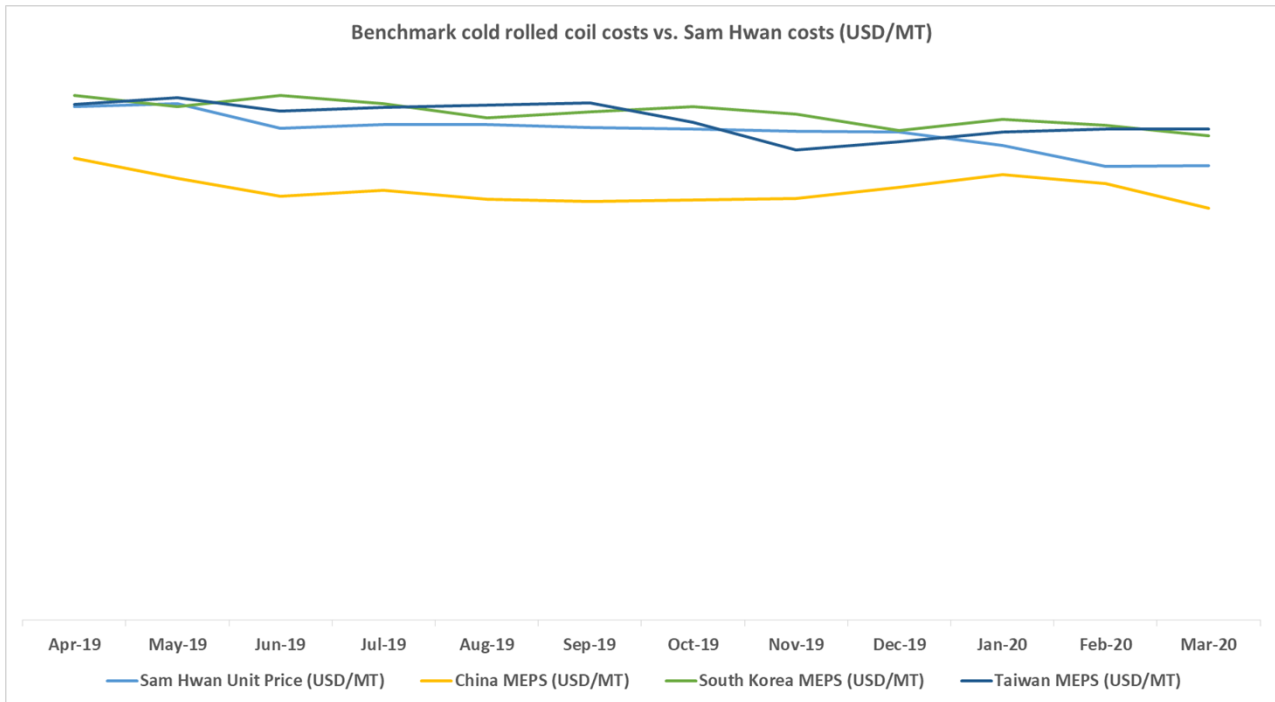


Figure 30 – Benchmark CRC costs vs. Sam Hwan costs

The figure above shows that costs for raw materials for Sam Hwan are in line with benchmark costs in comparable countries such as South Korea and Taiwan, while being considerably higher than the benchmark prices in China, where an allegation of a market situation was also made by the applicant.

### B5 GOV influence on the Vietnamese painted steel strapping market

From the evidence available to it, the Commission does not consider that the GOV exerts significant influence on the steel market in Vietnam such that domestic selling prices for painted steel strapping in Vietnam are unsuitable for use in determining a normal value under section 269TAC(1).

In respect of the applicant's assertion that the Steel Master Plans developed by the GOV are evidence of Government intervention, and following that, a market situation, the repeal of these Master Plans, as documented through official Government decrees (Decision No. 4977/QD-BCT and Law on Planning No. 21/2017/QH14), renders these plans invalid from 2019 onwards. Given there exists no official Government plans to control or otherwise influence the Vietnamese steel industry, no lasting effects from the time under the steel master plans, and no evidence of significantly different prices for raw materials in Vietnam compared to other Asian countries, there is no market situation that makes calculating the normal value for Vietnamese exports under section 269TAC(1) inappropriate.

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## APPENDIX C ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS – CHINA

### C1 Introduction

#### C1.1 Definition of Government, public and private bodies

In its assessment of each program, the Commission has had regard to the entity responsible for providing the financial contribution (if any) under the relevant program, as part of the test under section 269T(1) for determining whether a financial contribution is a subsidy. Under section 269T(1), for a contribution to be a subsidy, the contribution must have been made by:

- a government of the country of export or country of origin of the goods; or
- a public body of that country or a public body of which that government is a member; or
- a private body entrusted or directed by that government or public body to carry out a governmental function.

#### C1.2 Government

As described in section 16.2 of the Manual, the Commission considers that the term “government” is taken to include government at all different levels, including at a national and sub-national level.

#### C1.3 Public bodies

The term “public body” is not defined in the Act. Determining whether an entity is a “public body” requires evaluation of all available evidence of the entity’s features and its relationship with government, including the following:

- (1) The objectives and functions performed by the body and whether the entity in question is pursuing public policy objectives. In this regard relevant factors include:
  - legislation and other legal instruments,
  - the degree of separation and independence of the entity from a government, including the appointment of directors, and
  - the contribution that an entity makes to the pursuit of government policies or interests, such as taking into account national or regional economic interests and the promotion of social objectives.
- (2) The body’s ownership and management structure, such as whether the body is wholly- or part-owned by the government or has a majority of shares in the body. A finding that a body is a public body may be supported through:
  - the government’s ability to make appointments,
  - the right of government to review results and determine the body’s objectives, and
  - the government’s involvement in investment or business decisions.

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The Commission considers this approach is consistent with the WTO Appellate Body decision of *United States – Countervailing Measures (China)*<sup>166</sup> In that case the Appellate body referred to the following three indicia which may assist in assessing whether an entity was a public body vested with or exercising government authority:

- Where a statute or other legal instrument expressly vests government authority in the entity concerned;
- Where there is evidence that an entity is, in fact, exercising governmental functions; and
- Where there is evidence that a government exercises meaning control over an entity and exercises governmental authority in the performance of government functions.

These principles have also previously been considered in the Federal Court of Australia.<sup>167</sup>

### **C1.4 Private bodies**

Where an entity is neither a government nor public body, the Commission will consider it a private body, in which case, a government direction to make a financial contribution in respect of the goods must be established in order for the contribution to be considered a subsidy, as defined by section 269T(1).

Pursuant to section 16.3 of the Manual, in determining the character of an entity which may have provided a financial contribution, the Commission will consider whether a private body has been:

- “entrusted” to carry out a government function, which occurs when a government gives responsibility to a private body; or
- “directed” to carry out a government function, which occurs in situations where the government exercises its authority over a private body.

Accordingly, not all government acts will be considered as entrusting or directing a private body. Encouragement or mere policy announcements by government of themselves are not sufficient to satisfy this test. However, threats and inducements may be evidence of entrustment or inducements. It is where the private body is considered a proxy by government to give effect to financial contributions will this test be satisfied.

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<sup>166</sup> DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

<sup>167</sup> See; *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, [27] - [70]; *Dalian Steelforce Hi Tech Co Ltd V Minister for Home Affairs* [2015] FCA 885, [50] - [73]

## C2 Assessment of Programs

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
<p><b>Program 553-1</b></p> <p>Income tax relief for small low-profit enterprises</p>	<p>Reduce the cost of entrepreneurship and innovation, stimulate the development of small and micro businesses, and promote the expansion of employment.</p> <p>The program is a provided through reduction of tax rate to eligible companies upon approval.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Announcement of the State Administration of Taxation on Issues Relating to Implementation of Inclusive Income Tax Relief Policy for Small Low-profit Enterprises “State Administration of Taxation Announcement [2019] No. 2”</p>	<p>The program is offered to small low-profit enterprise engaging in non-restricted and non-prohibited businesses, that meets three criteria:</p> <ul style="list-style-type: none"> <li>• annual taxable income under RMB3 million</li> <li>• no more than 300 employees; and</li> <li>• total assets of less than RMB50 million.</li> </ul>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The amount of benefit from received from paying a lower amount of income tax as a result of this program has been attributed to all the company’s sales over the period. It was then allocated to the goods based on the net revenue over the period.</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission has examined the eligibility criteria for the program and considers that eligibility is established by objective and verifiable criteria as set out in State Administration of Taxation Announcement [2019] No. 2. Eligible enterprises will automatically be in receipt of a reduced tax rate.</p> <p>Based on the information available to the Commission regarding the nature of the program, in that it is available to small enterprises of any industry and location, there is no evidence to indicate that any of the factors in section 269TAAC(4) have been manifested in the administration of this program.</p> <p>Having considered the factors set out in section 269TAAC(4), the Commission is satisfied that</p>



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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					<p>the requirements of section 269TAAC(3) have been met.</p> <p>Accordingly, the Commission considers a subsidy under this program is not specific and is therefore not countervailable under section 269TAAC.</p>
<p><b>Program 553-2</b></p> <p>Special fund for industrial transformation and upgrading in 2019</p>	<p>The program provides grants for qualifying projects.</p> <p>From the information provided to the Commission, the scope of projects appears quite broad, with finding decisions resting with municipal bodies.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>No legal basis information provided.</p>	<p>Eligibility is limited to enterprises based in Qinhuangdao City. Eligible projects must be for more than RMB3million. Applications are reviewed the Municipal Finance Bureau and Municipal Bureau of Industry.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>The amount received from this fund has been attributed to all of the company's sales. It was then allocated to the goods based on the export revenue over the period.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a</p>	<p>Section 269TAAC(2)(b) provides that a subsidy is specific if, subject to section 269TAAC(3), it is limited to entities carrying on business within a designated geographical region.</p> <p>The Commission is satisfied this program provides a grant to enterprises located in the Qinhuangdao region, thereby satisfying the criteria in section 269TAAC(2)(b).</p> <p>The Commission does not consider that section 269TAAC(3) applies as the subsidy favours enterprises within Qinhuangdao over those located elsewhere.</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	
<p><b>Program 553-3</b></p> <p>Exemption and reduction of social insurance payments for enterprises during the epidemic period</p>	<p>The Ministry of Human Resources and Social Security, the Ministry of Finance and the State Taxation Administration exempted medium, small and micro enterprises from contributions to the three social security items:</p> <ul style="list-style-type: none"> <li>• basic pension insurance</li> <li>• unemployment insurance</li> <li>• work injury insurance.</li> </ul> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Notice of the Ministry of Human Resources and Social Security, the Ministry of Finance and the State Taxation Administration on the Reduction/Exemption of Enterprises' Social Security Contributions in Phases, 2 February 2020</p>	<p>Medium, small and micro enterprises are automatically eligible for this program.</p> <p>Exemptions may be granted by all provinces, autonomous regions, centrally-administered municipalities (except Hubei Province) and Xinjiang Production and Construction Corps based on the epidemic impact and the fund threshold.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>The amount received from this fund has been attributed to all of the company's sales. It was then allocated to the goods based on the export revenue over the period.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission has examined the eligibility criteria for the program and considers that while eligibility appears broad, it has not been presented with evidence that eligibility is established by objective and verifiable criteria. Benefits under the program are provided at the discretion of provincial authorities, leading to discrepancies in the eligibility and receipt of any benefits between regions.</p> <p>From its understanding of the program from the evidence available, the Commission considers that, having regard to the provisions of section 269TAAC(4), this program is specific and therefore countervailable.</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	
<p><b>Program 1</b></p> <p>Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones</p>	<p>The purpose of this subsidy is to absorb foreign investment and expand the open-up policy and enhance development of designated areas.</p> <p>This program was found to be countervailable in REP 419.</p> <p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program<sup>168</sup>.</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 8).</p>	<ul style="list-style-type: none"> <li>• Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991);</li> <li>• Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991);</li> <li>• SAT Circular Guo Shui Fa No.139 of 1995;</li> <li>• SAT Circular Guo Shui Fa No.135 of 2003;</li> <li>• Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>• Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>• State Council Circular Guo Fa No.39 of 2007.</li> </ul>	<ul style="list-style-type: none"> <li>• Enterprises with foreign investment of a production nature established in the economic and technological development zones shall be levied at the reduced income tax rate of 15%;</li> <li>• Enterprises with foreign investment of a production nature established in the coastal economic open areas and in the old urban districts of cities where the economic and technological development zones are located and which are engaged in the following projects: (a) technology-intensive or knowledge-intensive projects, with major products listed in the "Catalogue of High and New Technology Products of China" promulgated by MOST and the sales revenue of these products</li> </ul>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>Due to the nature of this program (reduced income tax rate) it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>The Commission considers that this subsidy is limited to enterprises established in the economic and technological development zones and in the coastal economic open areas.</p> <p>The Commission also considers that this subsidy targets enterprises with foreign investment.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the</p>

<sup>168</sup> Available on the Commission website

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>This program is administered by MOF, SAT, MOFCOM, MOST.</p>	<p>of a year accounting for over 50% of the total annual sales revenue of the enterprise of that year; (b) projects with foreign investments of over US\$30 million and having long periods for return on investment; and (c) energy resources, transportation and</p> <ul style="list-style-type: none"> <li>port construction projects, shall be levied at the reduced income tax rate of 15%.</li> </ul>	<p>meet the definition of a subsidy under section 269T.</p>	<p>criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 2</b></p> <p>One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'</p>	<p>This program was found to be countervailable in REP 419 (Program 2), and prior to that in REP 316 (Program 7).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Decision Concerning Commending and/or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of 'China Worldwide Famous Brand', 'China Famous Brand', or 'China Well-Known Brand'.</p> <p>The government of Guangdong Province is responsible for the administration and management of this program.</p>	<ul style="list-style-type: none"> <li>Enterprises whose products qualify for the Title of 'China Worldwide Famous Brand'; and</li> <li>Enterprises whose products qualify for the Title of 'China well-known brand' and/or 'famous trademark (China famous Trademark)'.</li> </ul>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is limited to enterprises in the Guangdong Province whose products qualify for the title of 'China worldwide famous brand', 'China well-known brand' and/or 'China famous brand'.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 5</b></p> <p>Matching Funds for International Market Development for Small and Medium Enterprises</p>	<p>This program was found to be countervailable in REP 419 (Program 5), and prior to that in REP 316 (Program 8).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p><i>Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises.</i></p> <p>The program is administered by the Ministry of Finance and Ministry of Commerce, with the assistance of other competent authorities, and is implemented by the local finance and foreign trade authorities in their respective jurisdictions.</p>	<p>SME enterprises that have:</p> <ul style="list-style-type: none"> <li>• a legal personality according to law;</li> <li>• the capacity to manage an import or export business;</li> <li>• made exports in the previous year of 15,000,000 (before 2010) or 45,000,000 (after 2010) US dollars or less;</li> <li>• sound financial management systems and records;</li> <li>• employees who specialise in foreign trade and economic business who possess the basic skills of foreign trade and economics; and</li> <li>• a solid market development plan.</li> </ul>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>The Commission considers that this program is limited to small and medium enterprises involved in foreign trade.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 6</b></p> <p>Superstar Enterprise Grant</p>	<p>This program was found to be countervailable in REP 419 (Program 6), and prior to that in REP 316 (Program 9).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<ul style="list-style-type: none"> <li>• Measures for Assessment and Encouragement of Superstar Enterprises and Excellent Enterprises; and</li> <li>• Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises, Excellent Enterprises and Backbone Enterprises.</li> </ul> <p>This program is administered by the Huzhou Economic Committee.</p>	<p>Enterprises located in Huzhou City that satisfy the following criteria:</p> <p>(a) The 'output scale' of the enterprises must meet one of the following criteria:</p> <ul style="list-style-type: none"> <li>• business income of the current year not exceeding RMB 3.5 billion and sales;</li> <li>• revenue within the city exceeding RMB 2 billion;</li> <li>• sales revenue within the city exceeding RMB 2.5 billion;</li> <li>• sales revenue within the city exceeding RMB 1.5 billion where the increase of sales revenue between 2007 and 008 was more than 30% and the increased paid up tax between 2007 and 2008 was more than RMB 10 million; or</li> <li>• revenue from self-export of current year is more than USD 150 million.</li> </ul> <p>(b) The enterprise's accumulated industrial input between the years 2006 to</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises in Huzhou City meeting the specified 'output scale'.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>2008 must have exceeded RMB 150 million.</p> <p>(c) The enterprise must be profitable, and its VAT ‘paid up’, while its</p> <ul style="list-style-type: none"> <li>• Consumption tax</li> <li>• Income tax;</li> <li>• Business tax;</li> <li>• City construction tax; and</li> <li>• Education supplementary tax</li> </ul> <p>must exceed RMB 30 million.</p> <p>(d) The enterprise must not have suffered environmental or ‘unsafe production accidents (or other illegal incidents) in the current year.</p> <p>(e) If the enterprise is not state-owned, it must have passed the ‘Five-Good Enterprises’ assessment conducted by its county or district.</p>		
<p><b>Program 7</b></p> <p>Research &amp; Development (R&amp;D) Assistance Grant</p>	<p>This program was found to be countervailable in REP 419 (Program 7), and prior to that in REP 316 (Program 10).</p>	<p>Regulatory instrument:</p> <ul style="list-style-type: none"> <li>• Notice of the Office of People’s Government of Wuxing District on Publishing and Issuing the Management Measures on</li> </ul>	<p>In REP 316, the GOC stated that to qualify for this grant, applicant must meet the following requirements:</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p>	<p>This program is limited to enterprises in Jinzhou New District with research and development facilities.</p> <p>The Commission is satisfied that this meets the criteria</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	<p>The Commission is not aware of any WTO notification of this program.</p>	<p>Three Types of Science and Technology Expenses of Wuxing District.</p> <ul style="list-style-type: none"> <li>The GOC stated that the funding shall not be more than RMB150,000 and the duration for supporting an enterprise shall not be more than 3 years.</li> </ul> <p>The government of Wuxing district and the Science and Technology Bureau of Wuxing District ('STB') are jointly responsible for the administration of this program.</p>	<ul style="list-style-type: none"> <li>register and operate in Jinzhou New District;</li> <li>have complete organisational structure, R&amp;D facilities and intellectual protection measures;</li> <li>have definite direction and task for technology development and technology research and have independent assets and funds;</li> <li>have a technology team with strong capacities to do research and development; and</li> <li>have more than one patent or science and technology project of municipal level and above.</li> </ul> <p>The GOC provided further information stating that the purpose of the grant is to accelerate the transformation of the economic development pattern and economic restructure of Jinzhou New District, enhance the capacity of self-dependent innovation of the district, implementing the strategy on "innovative Urban District", and making efforts to achieve the sound and rapid economy</p>	<p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>



**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			development of Jinzhou New District.		
<p><b>Program 8</b></p> <p>Patent Award of Guangdong Province</p>	<p>This program was found to be countervailable in REP 419 (Program 8), and prior to that in REP 316 (Program 34).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>2009 Guangdong Patent Award Implementation Proposal.</p> <p>Administered by the Guangdong Province Department of Intellectual Property and Department of Personnel</p>	<p>The award is granted to enterprises that have an 'innovations and utility models' or an 'industrial design' patent.</p> <p>An application under the 'innovations and utility models' patent category must establish that:</p> <ul style="list-style-type: none"> <li>• the production in question is skillfully constructed and innovative with high creation and technical level;</li> <li>• the product contributes to technical improvement and creation;</li> <li>• the patent has created</li> <li>• or has the potential to bring significant economic or social benefit; and</li> <li>• the patent holder has significantly protected the patent.</li> </ul> <p>An application under the industrial design category must establish that:</p> <ul style="list-style-type: none"> <li>• the industrial design has reached high level at shape, pattern and colour;</li> <li>• application of this industrial design has brought or has</li> </ul>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises in Guangdong Province that have an 'innovations and utility models' or an 'industrial design' patent.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

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**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>the potential to bring significant economic or social benefit; and</p> <ul style="list-style-type: none"> <li>the patent holder has significantly protected the patent.</li> </ul>		
<p><b>Program 10</b></p> <p>Preferential Tax Policies for Foreign Invested Enterprises— Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years</p>	<p>This program was found to be countervailable in REP 419 (Program 10).</p> <p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program.</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 1)</p>	<p>This subsidy is granted under the following legislation:</p> <ul style="list-style-type: none"> <li>Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991);</li> <li>Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise (1991);</li> <li>State Council Circular Guo Fa No. 37 of 2000;</li> <li>Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>State Council Circular Guo Fa No. 39 of 2007;</li> <li>MOF Circular Cai Shui No. 1 of 2008.</li> </ul>	<p>This subsidy is provided to any enterprise with foreign investment of a production nature to operate for a period of no less than 10 years shall, from the year beginning to make profit, be exempted from the enterprise income tax in the first and second years and allowed a reduction by half in the third to the fifth years ("2 years of exemption and 3 years of reduction by half").</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered a financial contribution made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises with foreign investment of a production nature.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>This program is authorised by: Ministry of Finance (MOF), State Administration of Taxation (SAT), Ministry of Commerce (MOFCOM).</p>			
<p><b>Program 11</b></p> <p>Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)</p>	<p>This program was found to be countervailable in REP 419 (Program 11).</p> <p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program.</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 1) and G/SCM/N/343/CHN (Program 2).</p>	<p>The legal basis to establish this subsidy is pursuant to the following:</p> <ul style="list-style-type: none"> <li>• Article 7 of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991);</li> <li>• Articles 69 and 75 of the Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (1991);</li> <li>• SAT Circular Guo Shui Fa No.139 of 1995;</li> <li>• SAT Circular Guo Shui Fa No.135 of 2003;</li> <li>• Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>• Regulations for the Implementation of Law of the People's Republic of China on Enterprise</li> </ul>	<p>This program is available to enterprises with foreign investment established in the Hainan Special Economic Zones and engaged in infrastructure projects such as airports, harbours, docks, highways, railways, power stations, coal mines and water conservation projects, and enterprises with foreign investment engaged in the development of and operations in agriculture with an operation period of no less than fifteen years.</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered that a financial contribution made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises with foreign investment in the Hainan Special Economic Zones.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>Income Tax (2007); State Council Circular Guo Fa No.39 of 2007;</p> <ul style="list-style-type: none"> <li>State Council Circular Guo Fa No.40 of 2007.</li> </ul> <p>This program is authorised by: Ministry of Finance (MOF), State Administration of Taxation (SAT), Ministry of Commerce (MOFCOM)</p>			<p>specificity in section 269TAAC(3).</p>
<p><b>Program 12</b></p> <p>Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai</p>	<p>This program was found to be countervailable in REP 419 (Program 12).</p> <p>In INV 559, the GOC made a submission that the <i>Enterprise Income Tax Law</i> came into force in 2008, and the <i>Income Tax of Enterprises with Foreign Investment and Foreign Enterprises</i> expired, which is the basis of this program.</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 9) and G/SCM/N/343/CHN (Program 3).</p>	<p>The legal basis to establish this subsidy is pursuant to the following:</p> <ul style="list-style-type: none"> <li>Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>State Council Circular Guo Fa No.39 of 2007;</li> <li>State Council Circular Guo Fa No.40 of 2007.</li> </ul> <p>This program is authorised by: Ministry of Finance (MOF), State Administration of Taxation (SAT)</p>	<p>This program is available to enterprises with foreign investment of a production nature established in Pudong area of Shanghai and enterprises with foreign investment engaged in energy resources and transport construction projects such as airport, ports, railways, highways and power stations.</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered a financial contribution would made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>This program is limited to enterprises with foreign investment in the Pudong area of Shanghai.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	specificity in section 269TAAC(3).
<p><b>Program 13</b></p> <p>Preferential Tax Policies in the Western Regions</p>	<p>The policy objective and/or purpose of this subsidy is to accelerate the development of the western regions, expand the opening up, lessen the imbalance of economic development among different areas and promote the development of the regions.</p> <p>This program was found to be countervailable in REP 419 (Program 13), and prior to that in REP 316 (Program 3).</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 11); G/SCM/N/315/CHN (Program 1.4); and G/SCM/N/343/CHN (Program 4).</p>	<p>The legal basis to establish this subsidy is pursuant to the following:</p> <ul style="list-style-type: none"> <li>• Circular of the State Council Guo Fa No. 33 of 2000, Circular of the State Council Guo Ban Fa No. 73 of 2001, Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>• Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007);</li> <li>• MOF GACC SAT Announcement No.43 of 2008;</li> <li>• MOF Circular Cai Shui No.58 of 2011;</li> <li>• MOF Circular Cai Shui No.4 of 2013;</li> <li>• Catalogue of Encouraged Industries in Central and Western Regions Fa Gai Wei No.15 of 2014;</li> <li>• State Council Circular Guo Fa No. 39 of 2007;</li> <li>• MOF Circular Cai Shui No.1 of 2008.</li> </ul> <p>The program is authorised by Ministry of Finance (MOF), State Administration</p>	<p>The subsidy is provided to:</p> <p>1) Enterprises established in the western regions which have the items included in the Catalogue of Encouraged Industries in Central and Western Regions as their major business with the income from that major business accounting for over 70% of total revenue of the current year;</p> <p>2) The domestic and foreign-invested enterprises which are newly established in the western regions before 31 December 2010 and engaged in business such as transportation, electric power, water conservancy, postal service, radio and television, enjoying “two years of exemption and three years of reduction by half” in accordance with Circular Cai Shui No. 202 of 2001, MOF, SAT, GACC, Circular on Preferential Tax Treatment Policy of Western Regions Development;</p>	<p>This program is limited to enterprises with foreign investment in the Pudong area of Shanghai.</p> <p>It provides preferential tax treatment in the form of a reduced tax rate to eligible enterprises.</p> <p>The reduced income tax rate is considered a financial contribution would made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises engaged in particular industries and businesses in the western region.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		of Taxation (SAT), Ministry of Commerce (MOFCOM) and other relevant authorities under the State Council.	3) The imported equipment for self-use within the total amount of the capital invested by domestic enterprises established in the western regions and engaged in the encouraged industries or by foreign-invested enterprises established in the western regions and engaged in the encouraged or advantageous industries, except for those listed in the Catalogue for the Imported Products not Subject to Tax Exemption in Foreign Invested Projects, the Catalogue for the Imported Products not Subject to Tax Exemption in Domestic Invested Projects, or the Catalogue for the Imported Major Technical Equipment and Products not Subject to Tax Exemption.		
<p><b>Program 14</b></p> <p>Tariff and VAT Exemptions on Imported Materials and Equipment</p>	<p>This program was found to be countervailable in REP 419 (Program 14), and prior to that in REP 316 (Program 6).</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 61).</p>	<p>Regulatory instrument:</p> <ul style="list-style-type: none"> <li>• Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment (Guo Fa [1997] No. 37);</li> <li>• Catalogue of Industries for Guiding Foreign Investment;</li> </ul>	<p>Under Articles 1 and 2 of the <i>Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment</i> (Guo Fa [1997] No. 37) to be eligible for this program:</p> <ul style="list-style-type: none"> <li>• the enterprise must be an FIE which falls in the 'encouraged' or 'restricted'</li> </ul>	<p>The Commission considers that the tariff and VAT exemptions under this program is a financial contribution by the GOC which involves the forgoing or not collecting of revenue by a government.</p> <p>Due to the nature of this program it is considered</p>	<p>This program is limited to foreign invested enterprises (FIE) that fall in the category of 'encouraged' or 'restricted' enterprises of the FIE catalogues, or domestic invested enterprises (DIE) that fall under the DIE catalogue.</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<ul style="list-style-type: none"> <li>• Catalogue of Industry, Product and Technology Key Supported by the State at Present (2004);</li> <li>• State Council's Import Goods Not Exempted from Taxation for Foreign Investment Projects Catalogue; and.</li> <li>• Import Goods Not Exempted from Taxation for Domestic Investment Projects Catalogue.</li> </ul> <p>The program appears to operate on a national level. The National Development and Reform Commission (NDRC) or its provincial branches issue certificates under this program, while local customs authorities administer the VAT and tariff exemptions.</p>	<p>categories in the <i>Catalogue of Industries for Guiding Foreign Investment</i> (2004) (until 30 November 2007) or the <i>Catalogue of Industries for Guiding Foreign Investment</i> (2007) (after 1 December 2007);</p> <ul style="list-style-type: none"> <li>• the imported equipment which is sought to be exempt from tariff and/or VAT must be for the enterprise's own use and not fall in the State Council's <i>Import Goods Not Exempted from Taxation for Foreign Investment Projects Catalogue</i>; and</li> <li>• the total value of the purchase must not exceed the investment 'cap'; or</li> <li>• the enterprise must be a domestic invested enterprise (DIE) which falls in the</li> <li>• <i>Catalogue of Industry, Product and Technology Key Supported by the State at Present</i> (2004) and the imported equipment must be for the enterprises own use and not fall in the <i>Import Goods Not Exempted from Taxation for Domestic Investment projects catalogue</i>; and</li> </ul>	<p>that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<ul style="list-style-type: none"> <li>the total value of the purchase must not exceed the investment 'cap'.</li> </ul>		
<p><b>Program 15</b></p> <p>Innovative Experimental Enterprise Grant</p>	<p>This program was found to be countervailable in REP 419 (Program 15), and prior to that in REP 316 (Program 11).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises.</p> <p>Administered by the administrative office of Science and Technology Bureau of Zhejiang province.</p>	<p>Eligible enterprises are those that are located in Zhejiang Province, and are:</p> <ul style="list-style-type: none"> <li>independent economic entities with 'reasonable asset-liability ratios', consistent earnings over the past 3 years, and an increasing market share;</li> <li>well placed to undertake research and development activities with a provincial or new and high-tech technology centre available, and proven relationships with colleges and scientific research centres;</li> <li>investing at least 5% of annual sales income;</li> <li>using intellectual property rights to protect major products; and</li> <li>strongly committed to technological innovation and protection with previous technological achievements.</li> </ul>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises engaged in research and development and technological innovation and protection in Zhejiang province.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>



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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
<p><b>Program 16</b></p> <p>Special Support Fund for Non State-Owned Enterprises</p>	<p>This program was found to be countervailable in REP 419 (Program 16), and prior to that in REP 316 (Program 12).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Notions concerning accelerating the growth of the non-state-owned economy, 18 April 2003.</p>	<p>Non-SOEs (SIEs) located in Yunnan Province.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is limited to non-SOEs (SIEs) located in Yunnan province.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 17</b></p> <p>Venture Investment Fund of Hi-Tech Industry</p>	<p>This program was found to be countervailable in REP 419 (Program 17), and prior to that in REP 316 (Program 13).</p>	<p>Regulatory Instrument:</p> <p>Circular of Chongqing People’s Government Office on Temporary Administration Measures on Venture Investment Fund of</p>	<p>Enterprises with ‘high-tech programs’ located in the High-Tech Zone or the High-Tech Park of the new Northern District.</p> <p>In addition:</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a</p>	<p>This program is limited to enterprises with ‘high-tech programs’ located in the High-Tech Zone or the High-Tech Park of the new Northern District.</p> <p>The Commission is satisfied that this meets the criteria</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	<p>The Commission is not aware of any WTO notification of this program.</p>	<p>Hi-tech Industry in Chongqing.</p> <p>The program is administered by the Chongqing Venture Investment Fund.</p>	<ul style="list-style-type: none"> <li>• the program must have a leading technological position in its field, and sufficient experience to enter the industrialisation development phase (industrialisation programs with intellectual property rights are given priority);</li> <li>• the product must be of high quality and have potential economic benefit to the collective development of the Chongqing High-Tech Industry Zone;</li> <li>• the department supporting the program must have good credit, excellent operation mechanisms and strong innovation abilities;</li> <li>• the enterprise must have good legal standing; and</li> <li>• the total investment in the program must be RMB 100 million or more.</li> </ul>	<p>financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 18</b></p> <p>Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment</p>	<p>This program was found to be countervailable in REP 419 (Program 18), and prior to that in REP 316 (Program 14).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Provisions of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters</p> <p>Administered by the local commerce authority of Guangzhou.</p>	<p>This program is available to enterprises whose headquarters are established in the Guangzhou Municipality by a foreign investor.</p> <p>To qualify as ‘Headquarters’ the facility must control all the operations and management of any enterprises it is invested in,</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all</p>	<p>This program is limited to enterprises whose headquarters are established in the Guangzhou Municipality by a foreign investor.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			<p>both in China and internationally.</p> <p>Only one enterprise Headquarters is permitted in the Guangzhou Municipality.</p> <p>To qualify as ‘Regional Headquarters’, the facility must control operations and management of some or all enterprises it is invested in a certain area of China.</p> <p>Headquarters or Regional headquarters may be of investment companies, management companies, research and development centres, and production enterprises.</p>	<p>goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 19</b></p> <p>Grant for key enterprises in equipment manufacturing industry of Zhongshan</p>	<p>This program was found to be countervailable in REP 419 (Program 19), and prior to that in REP 316 (Program 15).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Notice of Issuing ‘Method for Determination of Key Enterprises in Equipment Manufacturing Industry of Zhongshan,’ Zhong Fu (2005) No.127.</p> <p>The program is administered by the local economic and trade office, by the</p>	<p>For an enterprise to be eligible for this program:</p> <ul style="list-style-type: none"> <li>• it must be established, registered and carrying out business in Zhongshan City;</li> <li>• its primary product must be part of the equipment manufacturing industry and comply with the relevant industrial policies;</li> <li>• it must have assets over RMB 30 million, annual sales income of over RMB</li> </ul>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>This program is limited to enterprises whose primary product must be a part of the equipment manufacturing industry and established, registered and carrying out business in Zhongshan City.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>Municipal Economic and Trade Bureau ('METB') and by the Municipal Leading Group of Accelerating Development of Equipment Manufacturing Industry of Zhongshan City ('MLG').</p>	<p>50 million and annual paid-in tax of over RMB 3 million or, alternatively, the enterprise's main economic and technical indices must be at the forefront of the equipment manufacturing industry in the country or province, and have potential for additional development;</p> <ul style="list-style-type: none"> <li>• it must have implemented a brand strategy, established a technical centre for research and development and be comparatively strong in its capacity for independent development and technical innovation; and</li> <li>• it must have good credit standing.</li> </ul>	<p>enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 20</b></p> <p>Hot rolled steel provided by government at less than fair market value</p>	<p>The Commission has found that the GOC materially influenced conditions within the Chinese HRC and CRC market during the review period (see Appendix A).</p>	<p>See Appendix A.</p>	<p>There is no eligibility criteria. HRC is available at a distorted rate to all market participants in China.</p>	<p>The Commission has previously found that Chinese SIEs producing steel raw materials are 'public bodies' for the purposes of section 269T.</p> <p>The amount of benefit where there has been a provision of goods or services by the government is the difference between the price paid by enterprises for the government provided goods or service, and adequate remuneration</p>	<p>N/A</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>for the product or service in relation to prevailing market conditions. If the price paid to the government is less than this amount, a benefit has been conferred.</p> <p>While the Commission has found there exists a particular market situation in respect of HRC, this does not result in the domestic HRC market not being the prevailing market conditions under which HRC is provided or purchased. The Commission considers that this market, while distorted, is still the prevailing market in China where HRC is purchased.</p> <p>Accordingly, to determine the adequacy of remuneration, the Commission has compared purchases of HRC by the sole cooperating exporter from private companies against purchases from SOEs, consistent with the approach outlined in Chapter 17 of the Manual. The Commission has examined the raw material purchase prices paid by the cooperating exporter and found that prices offered by</p>	

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>SOEs are higher than non-SOE sellers for this exporter.</p> <p>Accordingly, no benefit has been conferred under this program.</p>	
<p><b>Program 21</b></p> <p>Water Conservancy Fund Deduction</p>	<p>This program was found to be countervailable in REP 419 (Program 21), and prior to that in REP 316 (Program 16).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Notification of Relevant Problems of Further Strengthening Water Conservancy Fund Deduction Administration of Zhejiang Province Local Taxation Bureau (ZheDiShuiFa [2007] No.63).</p> <p>This program is administered by the Local Taxation Bureau of Zhejiang Province and it is implemented by the competent local taxation authorities of the municipal and county levels in Zhejiang Province.</p>	<p>The GOC has confirmed that only enterprises satisfying one of following criteria will eligible for the grant under this program:</p> <ul style="list-style-type: none"> <li>• provide job opportunities to laid-off workers, the disabled, and retired soldiers searching for jobs;</li> <li>• enterprises that ‘utilize resource comprehensively as designated by government department above municipal level’;</li> <li>• trading enterprises of commodities with annual gross profit rate of less than 5%;</li> <li>• enterprises undertaking ‘State reserve and sale, the portion of revenues incurred from that undertaking may qualify for an exemption of the fee’;</li> <li>• ‘advanced manufacturing enterprises’ or key enterprises as designated by the municipal government, which are undertaking technology</li> </ul>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises located in Zhejiang province that satisfy one of the specific criteria.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			development projects and incurring development expenditure at an amount above RMB1 million; <ul style="list-style-type: none"> <li>• ‘insurance company’s revenue from sales which are subject to exemption of excise tax’;</li> <li>• ‘bank’s revenue from turnovers between banks’;</li> <li>• ‘revenue from sales between members of an enterprise group subject to same consolidated financial statement’.</li> </ul>		
<p><b>Program 22</b></p> <p>Wuxing District Freight Assistance</p>	<p>This program was found to be countervailable in REP 419 (Program 22), and prior to that in REP 316 (Program 35).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Several Opinions On Further Supporting Industrial Sector To Separate And Develop Producer-Service Industry (HuZhengBanFa [2008] 109).</p> <p>This program is administered by the Finance Bureau of Huzhou City.</p>	<p>Those enterprises whose annual freight cost is RMB 3 million or above, will be refunded 50% of the increase in the annual turnover tax which is paid locally by the transportation business and which is retained by the city. This increase is measured over the amount of tax paid in 2007.</p> <p>For enterprises whose annually paid income tax is RMB100,000 or above:</p> <ul style="list-style-type: none"> <li>• 100% of the income tax paid by the ‘separated enterprise’ and retained by the city will be granted as assistance in each of the three years after the</li> </ul>	<p>The refunded income tax and turnover tax under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The refunded income tax and turnover tax is based on annual freight cost. It is considered that this financial contribution would be made in connection to the export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a</p>	<p>This program is limited to enterprises whose annual freight cost is RMB 3 million or above located in Wuxing district.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
			establishment date of the separated enterprise; and <ul style="list-style-type: none"> <li>• 50% of the turnover tax paid by the separated enterprise and retained by the city will be granted as assistance in each of the three years after the establishment date of the separated enterprise.</li> </ul>	benefit in relation to the goods exported to Australia.	limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 23</b></p> <p>Huzhou City Public Listing Grant</p>	<p>This program was found to be countervailable in REP 419 (Program 23), and prior to that in REP 316 (Program 36).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p><i>Notification of Government of Huzhou City (HuBan No.160).</i></p> <p>This program is administrated by the Finance Bureau of Huzhou City.</p>	<p>This program is available to enterprises that successfully completed listing of shares during 2010.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>This program is limited to enterprises in Huzhou City that successfully completed listing of shares during 2010.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to</p>



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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	specificity in section 269TAAC(3).
<p><b>Program 27</b></p> <p>Huzhou City Quality Award</p>	<p>This program was found to be countervailable in REP 419 (Program 27), and prior to that in REP 316 (Program 37).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory instrument:</p> <p>Notification of the Office of People's Government of Huzhou City (HuZhengBanFa No.60).</p> <p>The Government of Huzhou City and the Bureau for Quality and Technical Supervision are jointly responsible for the administration of this program.</p>	<p>The award is granted to no more than three enterprises each year that are registered in Huzhou City and have been in operation for more than three years and that have:</p> <ul style="list-style-type: none"> <li>• 'enjoyed excellent performance';</li> <li>• 'implemented quality management'; and</li> <li>• 'obtained a leading position in industry with significant economic benefits and social benefits'.</li> </ul> <p>The products of an applicant must also meet the standards provided by laws and regulations regarding product safety, environmental protection, field safety as well as relevant industrial policy.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is awarded to no more than three enterprises each year located in Huzhou City and have excellent performance, implemented quality management and an industry leader with significant economic and social benefits.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
					specificity in section 269TAAC(3).
<p><b>Program 28</b></p> <p>Huzhou Industry Enterprise Transformation &amp; Upgrade Development Fund</p>	<p>This program was found to be countervailable in REP 419 (Program 28), and prior to that in REP 316 (Program 38).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>The purpose of the program is to promote industrial structure adjustment and upgrading, and to support technology updating and innovation of enterprises.</p> <p>In REP 316, the GOC advised that there is no single purpose legal document directly related to any benefit received by a respondent under investigation.</p> <p>The Bureau of Finance and the Economic and Information Committee of Huzhou City are jointly responsible for the administration of this program. The Bureau of Finance and the Economic and Information Committee of Huzhou City examine and approve applications, with the funds provided from the budget of the Financial Bureau of Huzhou City.</p>	<p>This program is limited to enterprises registered in Huzhou and encourages the transformation and upgrade of enterprises, ‘including but not limited to industry upgrades, and to promote equipment manufacturing industry, high and new technology industry and new industry’.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>This program is limited to enterprises which encourages the transformation and upgrade of enterprises and registered in Huzhou.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 29</b></p>	<p>This program provides for the reduction or exemption of land use taxes for high</p>	<p>Regulatory instrument:</p>	<p>This program is available to new high and new technology enterprises</p>	<p>The Commission considers that the reduction in land use tax provided under this</p>	<p>This program is limited to high and new technology</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
Land Use Tax Deduction	<p>and new technology enterprises.</p> <p>This program was found to be countervailable in REP 419 (Program 29), and prior to that in REP 316 (Program 4).</p> <p>This program was identified as having received by a cooperative exporter in REP 419.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Approval of Tax (Expense) Deduction (ZhengDiCaShui [2010] No.11581).</p> <p>This program is administered by Huzhou City Local Taxation Bureau and Wuxing Sub-Bureau.</p>	within three years of their establishment.	<p>program is a financial contribution by the GOC which involves the forgoing of land use tax revenue otherwise due to the GOC.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>enterprises that are less than three years old.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 30</b></p> <p>Wuxing District Public Listing Grant</p>	This program was found to be countervailable in REP 419 (Program 30), and prior to that in REP 316 (Program 39).	<p>Regulatory instrument:</p> <p>Notification on Awarding Advanced Individuals and Advanced Entities of Industrial Economy and Open Economy for the Year</p>	A grant is available to eligible advanced publicly listed enterprises.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.	<p>This program is limited to eligible advanced publicly listed enterprises in Wuxing District.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	<p>The Commission is not aware of any WTO notification of this program.</p>	<p>of 2010 (WuWeiFa [2011] No.14).</p> <p>This program is administered by the Government of Wuxing District.</p>		<p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 31</b></p> <p>Anti-dumping Respondent Assistance</p>	<p>This program was found to be countervailable in REP 419 (Program 31), and prior to that in REP 316 (Program 17).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Notification of Receiving Fair Trade Assistance by Wuxing Foreign Economic and Trade Bureau.</p> <p>This program is administrated by Wuxing District Foreign Economic and Trade Bureau.</p>	<p>Enterprises which incur expenses in an anti-dumping proceeding may benefit from this program.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>N/A</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>enterprise (including goods exported to Australia).</p> <p>However, the Commission, after reviewing its previous anti-dumping investigations, is satisfied that any contribution received under this program is not in respect of the export of the goods to Australia, as this is the first such case into the goods.</p> <p>In light of the above, the Commission has determined that no subsidy was provided under this program in respect of the goods during the investigation period.</p>	
<p><b>Program 32</b></p> <p>Technology Project Assistance</p>	<p>This program was found to be countervailable in REP 419 (Program 32), and prior to that in REP 316 (Program 18).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Regulatory Instrument:</p> <p>Interim Measure for Administration of Post-completion Assistance or Loan Interest Grant for Industrialization of Science and Technology Achievements Sponsored by Zhejiang Province (2008).</p> <p>The Bureau of Finance and the Science and Technology Bureau of Huzhou City are jointly responsible for the</p>	<p>This program is available to enterprises that undertake a scientific research project which meets the scope of the projects encouraged under this program.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient</p>	<p>This program is limited to enterprises that undertake a scientific research project encouraged under this program.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>As the GOC did not provide a response to the Commission's questionnaire, the</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		administration of this program.		<p>enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	Commission does not consider that section 269TAAC(3) applies.
<p><b>Program 34</b></p> <p>Balidian Town Public Listing Award</p>	<p>This program was found to be countervailable in REP 419 (Program 34), and prior to that in REP 177 (Program 34).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In investigation 177, the GOC advised that there is no relevant legislation governing this program.</p> <p>This program is administered by the Government of Wuxing District.</p>	<p>The program was a one-time grant provided to enterprises in the Kingland Pipeline Industrial Park, Wuxing District that conducted successful public listing of shares and investing funds raised through its public listing into a pipeline construction project in Wuxing.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>This program is limited to enterprises that conducted successful public listing of shares and investing funds raised through its public listing into a pipeline construction project in Wuxing.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 35</b></p> <p>Preferential Tax Policies for High and New Technology Enterprises</p>	<p>This program reduces the income tax paid by high and new technology enterprises to 15% (from the standard enterprise income tax rate of 25%).</p> <p>This program was found to be countervailable in REP 419 (Program 35), and prior to that in REP 316 (Program 5).</p> <p>Notified by the GOC to the WTO in G/SCM/N/220/CHN (Program 6); G/SCM/N/315/CHN (Program 1.5); and G/SCM/N/343/CHN (Program 5).</p>	<p>This program is provided for in Article 28 of the PRC Enterprise Income Tax Law 2007, which states that:</p> <p>“With respect to a high and new technology enterprise that needs key support by the State, the tax levied on its income shall be reduced at a rate of 15%.”</p> <p>It is considered likely that this program is a national program, administered by the GOC’s State Administration of Taxation.</p> <p>Article 28 of the Law of the People's Republic of China on Enterprise Income Tax (2007); Article 93 of the Regulations for the Implementation of Law of the People's Republic of China on Enterprise Income Tax (2007) .</p>	<p>Companies recognised by the GOC as a high and new technology enterprise are eligible for this program.</p> <p>To be recognised as a high and new technology enterprise, companies must meet certain criteria, submit an application, alongside copies of the company’s business registration and other relevant documentation, and have the application approved by relevant authorities.</p>	<p>The reduced income tax rate under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The reduced income tax rate is considered a financial contribution made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises recognised by the GOC as a high and new technology enterprise.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
		<p>This program is authorised by the Ministry of Science and Technology (MOST), Ministry of Finance (MOF), State Administration of Taxation (SAT) .</p>			
<p><b>Program 36</b>  Local Tax Bureau Refund</p>	<p>This program was found to be countervailable in REP 419 (Program 36), and prior to that in REP 379 (Program 36).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by the local tax bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location, employment and tax contributions to the local government.</p>	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>



**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
<p><b>Program 37</b></p> <p>Return of Farmland Use Tax</p>	<p>This program was found to be countervailable in REP 419 (Program 37), and prior to that in REP 379 (Program 37).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by the local tax bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location, employment and tax contributions to the local government.</p>	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 38</b></p> <p>Return of Land Transfer Fee</p>	<p>This program was found to be countervailable in REP 419 (Program 38), and prior to that in REP 379 (Program 38).</p>	<p>In REP 379, this program was administered by the local tax bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location, employment and tax</p>	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not collecting</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
	<p>The Commission is not aware of any WTO notification of this program.</p>		<p>contributions to the local government.</p>	<p>of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 39</b></p> <p>Return of Land Transfer Fee From Shiyou</p>	<p>This program was found to be countervailable in REP 419 (Program 39), and prior to that in REP 379 (Program 39).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by the local tax bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include company location, employment and tax contributions to the local government.</p>	<p>The refund of government revenue to the recipient enterprise under this program is a financial contribution by a government which involves foregoing or not collecting of revenue by a government.</p> <p>The financial contribution would be made in connection to all goods manufactured by the recipient enterprise</p>	<p>This program is limited to enterprises within the jurisdiction of the local authorities.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in</p>

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**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>(including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 40</b></p> <p>Dining lampblack governance subsidy of Jinghai County Environmental Protection Bureau</p>	<p>This program was found to be countervailable in REP 419 (Program 40), and prior to that in REP 379 (Program 40).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Environment Protection Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in</p>

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**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 41</b></p> <p>Discount interest fund for technological innovation</p>	<p>This program was found to be countervailable in REP 419 (Program 41), and prior to that in REP 379 (Program 41).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Handan City Industry Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Handan City Industry Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in</p>

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**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 42</b></p> <p>Energy conservation and emission reduction special fund project in 2015</p>	<p>This program was found to be countervailable in REP 419 (Program 42), and prior to that in REP 379 (Program 42).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Daqizhuang Town Financial Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Daqizhuang Town Financial Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in</p>

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**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 43</b></p> <p>Enterprise famous brand reward of Fengnan Finance Bureau</p>	<p>This program was found to be countervailable in REP 419 (Program 43), and prior to that in REP 379 (Program 43).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Fengnan District Science and Technology Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Fengnan District Science and Technology Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 44</b></p> <p>Government subsidy for construction</p>	<p>This program was found to be countervailable in REP 419 (Program 44), and prior to that in REP 379 (Program 44).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Handan City Local Tax Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Handan City Local Tax Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				meet the definition of a subsidy under section 269T.	favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 45</b></p> <p>Infrastructure Construction Costs Of Road In Front Of No.5 Factory</p>	<p>This program was found to be countervailable in REP 419 (Program 45), and prior to that in REP 379 (Program 45).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Local Tax Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Local Tax Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 46</b></p> <p>New Type Entrepreneur Cultivation Engineering Training Fee Of Jinghai County Science And Technology Commission</p>	<p>This program was found to be countervailable in REP 419 (Program 46), and prior to that in REP 379 (Program 46).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Science and Technology Committee.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Science and Technology Commission.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility criteria were neutral, no not</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 47</b></p> <p>Subsidy for Coal-Fired Boiler of Fengnan Subtreasury</p>	<p>This program was found to be countervailable in REP 419 (Program 47), and prior to that in REP 379 (Program 47).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Fengnan District Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Fengnan District Environment Protection Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 48</b></p> <p>Subsidy for Coal-Fired Boiler Rectification</p>	<p>This program was found to be countervailable in REP 419 (Program 48), and prior to that in REP 379 (Program 48).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Handan City Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Handan City Environment Protection Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 49</b></p> <p>Subsidy for District Level Technological Project</p>	<p>This program was found to be countervailable in REP 419 (Program 49), and prior to that in REP 379 (Program 49).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Daqiu Zhuang Town Science and Technology Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Daqiu Zhuang Town Science and Technology Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p> <p>No evidence was provided indicating that the eligibility</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				The financial contributions made under this program meet the definition of a subsidy under section 269T.	criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).
<p><b>Program 50</b></p> <p>Subsidy For Pollution Control Of Fengnan Environmental Protection Bureau</p>	<p>This program was found to be countervailable in REP 419 (Program 50), and prior to that in REP 379 (Program 50).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Fengnan District Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Fengnan District Environment Protection Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p>

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Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 51</b>  Subsidy from Science and Technology Bureau of Jinghai County</p>	<p>This program was found to be countervailable in REP 419 (Program 51), and prior to that in REP 379 (Program 51).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Science and Technology Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Science and Technology Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>
<p><b>Program 52</b></p> <p>Subsidy of Environment Bureau transferred from Shiyou</p>	<p>This program was found to be countervailable in REP 419 (Program 52), and prior to that in REP 379 (Program 52).</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>In REP 379, this program was administered by Jinghai County Environment Protection Bureau.</p>	<p>According to information provided by the cooperative exporter in REP 379, local authorities are responsible for determining the eligibility criteria which may include protection of environment, facility construction and tax contributions to the local government.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including goods exported to Australia).</p> <p>The Commission considers that this constitutes a</p>	<p>The Commission consider this program is available to enterprises that have conducted environment protection, facility construction and tax contributions to the local government. Access is limited to enterprises within the jurisdiction of the Jinghai County Environment Protection Bureau.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(a) and 269TAAC(2)(b).</p>

**PUBLIC RECORD**

Program	Background and WTO Notification	Legal Basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?
				<p>benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>No evidence was provided indicating that the eligibility criteria were neutral, no not favour particular enterprises, are economic in nature and horizontal in application, or that the criteria are strictly adhered to in the administration of the subsidy. Eligibility is limited to certain enterprises, favouring particular enterprises over others. It therefore does not satisfy the exception to specificity in section 269TAAC(3).</p>