



Australian Government
Australian Customs and
Border Protection Service

R E P O R T

CUSTOMS ACT 1901 - PART XVB

INTERNATIONAL TRADE REMEDIES BRANCH

CONSIDERATION OF AN APPLICATION FOR A DUMPING
DUTY NOTICE – HOLLOW STRUCTURAL SECTIONS
EXPORTED FROM KOREA, MALAYSIA, TAIWAN AND
THAILAND

AND

CONSIDERATION OF AN APPLICATION FOR A DUMPING
AND A COUNTERVAILING DUTY NOTICE – HOLLOW
STRUCTURAL SECTIONS EXPORTED FROM CHINA

REPORT NO. 177

15 September 2011

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ABBREVIATIONS

ABS	Australian Bureau of Statistics
ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901</i>
the applicant	OneSteel ATM
AS	Australian Standard
CBSA	Canadian Border Services Agency
China	People's Republic of China
CHS	circular hollow sections
CSWP	Carbon steel welded pipe (2008 CBSA-instigated goods)
Customs and Border Protection	Australian Customs and Border Protection Service
the Division	Division 2 of Part XVB of the <i>Customs Act 1901</i>
DS379	WTO Appellate Body <i>United States – Definitive Anti-Dumping and Countervailing Duties on Certain Product from China</i>
EU	the European Union
FOB	free-on-board
FOT	Free-on-truck
GFC	global financial crisis
GOC	Government of China
the goods	the goods subject to the application (HSS)
HDG	hot-dipped galvanised
Hot rolled steel	HRC and HRS (collectively)
HRC	hot rolled coil
HRS	narrow strip/hot rolled strip
HSS	certain hollow structural sections
ILG	in-line galvanised
Money for Metal	<i>Money For Metal: A Detailed Examination of Chinese Government Subsidies to its Steel Industry</i>
NIP	non-injurious price
ITM	Independent Tube Mills Pty Ltd
ITRB	International Trade Remedies Branch
Korea	The Republic of Korea
The Minister	the Minister responsible for Customs (currently the Minister for Home Affairs)
OneSteel ATM	OneSteel Australian Tube Mills Pty Ltd
Orrcon	Orrcon Operations Pty Ltd
RHS	rectangular hollow section
SBB	Steel Business Briefing
SCM Agreement	Agreement on Subsidies and Countervailing Measures
SEF	statement of essential facts
SIMA	Special Imports Measures Act (Canada)
SOE	State owned enterprise
Thailand	the Kingdom of Thailand
TMRO	Trade Measures Review Officer
USP	unsuppressed selling price

1 SUMMARY AND RECOMMENDATIONS

This report provides the results of Australian Customs and Border Protection Service's (Customs and Border Protection) consideration of an application for:

- the publication of a dumping duty notice in respect of certain hollow structural sections¹ (HSS) exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia Taiwan and the Kingdom of Thailand (Thailand); and
- the publication of a countervailing duty notice in respect of HSS exported to Australia from China.

1.1 Recommendations

Customs and Border Protection recommends that the Chief Executive Officer of Customs and Border Protection (CEO) decide not to reject the application.

If the CEO accepts this recommendation, to give effect to that decision, the CEO must publish the notice at **Appendix A** indicating that Customs and Border Protection will inquire into whether the grounds exist to publish a dumping duty notice and/or a countervailing duty notice.

1.2 Application of law to facts

Division 2 of Part XVB (the Division) of the *Customs Act 1901* (the Act)² sets out procedures for considering an application for a dumping duty notice.

1.2.1 The role of the International Trade Remedies Branch

The International Trade Remedies Branch of Customs and Border Protection (ITRB) is responsible for preparing a report for the CEO examining an application for a dumping duty notice.

In this report, the following matters are considered in relation to the application:

- whether the application complies with subsection 269TB(4);
- whether there is, or is likely to be established, an Australian industry in respect of like goods;
- whether there appear to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods the subject of the application.

1.2.2 The role of the CEO of Customs and Border Protection

The Act empowers the CEO, after having regard to the ITRB report, to reject or not reject an application for the publication of a dumping duty notice and a countervailing duty notice.

If the CEO decides not to reject the application, the CEO must give public notice of the decision providing details of the investigation.

¹ Refer to the full description of the goods in Section 2.2.1 of this report.

² All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

The CEO's powers have been delegated to certain officers of ITRB.

1.3 Findings and conclusions

Customs and Border Protection has examined the application for the publication of a dumping duty notice in relation to HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand, and a countervailing duty notice in relation to HSS exported to Australia from China.

Customs and Border Protection is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (the reasons for being satisfied are set out in Chapter 3 of this report);
- there is, or is likely to be established, an Australian industry in respect of like goods (as set out in Chapter 4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods the subject of the application (as set out in Chapters 5 and 6 of this report).

2 INTRODUCTION

2.1 Application

On 12 August 2011, OneSteel Australian Tube Mills Pty Ltd (OneSteel ATM, the applicant) on behalf of the Australian industry manufacturing HSS, lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand and a countervailing duty notice in respect of HSS exported to Australia from China.

On 26 August 2011, the applicant provided further information in support of its application. As a result, Customs and Border Protection restarted the 20 day period for considering the application (see Section 2.2 of this report).

Within its application, OneSteel ATM alleges that HSS has been exported to Australia from China, Korea, Malaysia, Taiwan and Thailand at prices lower than its normal value, that HSS exported to Australia from China has received countervailable subsidies, and that this dumping and subsidisation has caused material injury to the Australian industry producing HSS. The application has identified the injurious effects as:

- lost sales volumes;
- lost market share;
- price undercutting;
- price suppression;
- price depression;
- lost profits and profitability;
- reduced return on investment;
- reduced attractiveness to reinvest;
- reduced employment;
- reduced plant utilisation rates; and
- reduced forward orders, cash flows and inventory levels.

2.2 The goods the subject of the application

2.2.1 Description

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

Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21 mm up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

The application includes the following information to clarify the nature of the goods.

Finishes

All HSS regardless of finish is included in the application. Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS. Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

CHS with other than plain ends (such as threaded, swaged and shouldered) are also included in the application.

Standards

HSS is generally produced to either the British Standard BS 1387 or the Australian Standard AS 1163 or international equivalent standards (including ASTM/JIS and KS). HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals (MPa).

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

Excluded goods

The following categories are excluded from the goods subject of the application:

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);
- precision RHS with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes to AS 2556.

2.2.2 Tariff classification

The application stated that the goods are classified to the following tariff subheadings:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37)
- 7306.61.00 (statistical codes 21, 22 and 23)
- 7306.69.00 (statistical codes 26, 27 and 28)

Based on information provided in the application, Customs and Border Protection's Tariff Branch has confirmed that the goods are correctly classified to tariff subheadings 7306.30.00 (circular hollow sections) and 7306.61.00 (rectangular or square hollow sections) and 7306.69.00 (other non-circular cross-sections) in Schedule 3 to the Customs Tariff Act 1995.

The goods exported to Australia from Korea and Taiwan are subject to a 5% rate of duty.

For China and Malaysia the goods exported to Australia are subject to a 4% rate of duty.

The goods exported to Australia from Thailand using Thailand Free Trade Agreement are free from duty as of 1 January 2010.

There are numerous Tariff Concession Orders applicable to the relevant tariff subheadings.

2.3 Consideration of the application

Under subsection 269TC(1) of the *Customs Act 1901* the CEO must examine an application for publication of a dumping duty notice and/or a countervailing duty notice upon its receipt and, within 20 days of lodgement (or 20 days of lodgement of further information in support of the application), decide whether or not to reject the application.

In relation to this application, this decision must be made no later than **15 September 2011**.

Subsection 269TC(1) specifies that the CEO shall reject the application if he is not satisfied that:

- the application complies with subsection 269TB(4); or
- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appear to be reasonable grounds for the publication of a dumping duty notice or a countervailing duty notice in respect of the goods the subject of the application.

The above matters are examined in the following sections of this report.

2.4 Previous investigations

Customs and Border Protection has previously conducted several investigations, (including reinvestigations, reviews and continuation inquiries) into HSS and specific sub-categories of the goods from various countries.

The more recent of these investigations are discussed below.

2.4.1 2006/2007 Investigation (Report No. 116)

On 8 June 2006, Customs and Border Protection made public notification that it had initiated an investigation into the alleged dumping of HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand.

On 8 December 2006, Customs and Border Protection terminated the investigation insofar as it related to exports of HSS to Australia from Korea, Malaysia, Taiwan, Thailand, and in relation to certain Chinese exporters, being satisfied that HSS exported from these countries and exporters had either been exported at prices that were not dumped or at dumping margins that were negligible.

Following this investigation, Customs and Border Protection recommended to the Minister, that a dumping duty notice be published in relation to HSS exported to Australia from certain remaining Chinese exporters. This recommendation was accepted on 14 May 2007.

The reasons for the Minister's decision in this case are contained in Trade Measures Report No.116 (REP 116).

2.4.2 2008/2009 Review (Report No. 143)

On 18 December 2008 Customs and Border Protection initiated a review into the anti-dumping measures in place on HSS exported to Australia from China by certain Chinese exporters (imposed as a result of the above investigation No. 116).

Following this review, Customs and Border Protection recommended that the Minister declare that the measures in relation to these Chinese exporters remain unaltered (the dumping duty notice and in-force price undertakings). The Minister accepted these recommendations.

However, as this review was interconnected with Investigation No. 144 (discussed below) and the outcome of that investigation was not yet certain due to the TMRO's resumption of the investigation, Customs and Border Protection separately recommended that the Minister request Customs and Border Protection to undertake a fresh review of the measures (see the below Report No. 153).

The reasons for the Minister's decision in this case are contained in Trade Measures Report No.143 (REP143).

2.4.3 2008/2009 Investigation (Report No. 144)

On 19 November 2008, Customs and Border Protection received an application from the Australian industry for the publication of:

- a dumping duty notice in respect of HSS exported to Australia from Malaysia and by Chinese exporters not already subject to anti-dumping measures; and
- a countervailing duty notice in respect of HSS exported to Australia from China.

On 20 May 2009 Customs and Border Protection terminated the investigation of the alleged dumping of HSS in so far as it related to Malaysia as the CEO was satisfied that:

- exports of HSS to Australia by the principal Malaysian exporter, Alpine Pipe Manufacturing Sdn Bhd, were dumped by a negligible margin; and
- the volume of HSS exported to Australia during the investigation period by other Malaysian exporters was negligible.

On 5 June 2009, Customs and Border Protection terminated the investigation insofar as it related to claims of subsidisation and dumping from Chinese exporters not already subject to the measures, as the CEO was satisfied that injury, if any, suffered by the Australian industry caused by dumping and/or subsidisation of HSS exported from China by these exporters was negligible

Following these terminations, the Australian industry applied to the Trade Measures Review Officer (TMRO) for review of both decisions. The TMRO revoked

both decisions and resumed investigations into Malaysia and the Chinese exporters not already subject to anti-dumping measures.

On 23 August 2010, the CEO again terminated the investigation into Malaysia and certain Chinese exporters of HSS.

The reasons for the CEO's decision in this case are contained in Termination Report No. 144A (TER144A).

2.4.4 2009 Continuation Inquiry (Report No. 147)

In June 2009, Customs and Border Protection initiated a continuation inquiry into anti-dumping measures that were in place on certain HDG circular HSS exported from Thailand (originally imposed in 2000).

As a result of this inquiry, Customs and Border Protection recommended that the Minister decide not to continue these anti-dumping measures, which the Minister accepted and the measures were allowed to expire.

The reasons for Customs and Border Protection's recommendations in this case can be found within Trade Measures Report No. 147 (REP147).

2.4.5 2009/2010 Review (Report No. 153)

On 24 September 2009 the Minister requested the CEO initiate a new review into the anti-dumping measures in place on certain HSS exported to Australia by certain Chinese exporters (following Report No. 143).

Following that review, Customs and Border Protection recommended to the Minister (within Trade Measures Report No. 153 (REP153)) that the measures insofar as they related certain Chinese exporters of HSS remain in force, but that the variable factors be altered.

During the Minister's consideration of REP153, the Full Federal Court handed down its decision in *Minister of State for Home Affairs v Siam Polyethylene Co Ltd*³ which cast doubt on the legality of the delegate's recommendations in REP153.

Consequently, Customs and Border Protection issued an addendum to REP153, which recommended that the Minister revoke the measures (both the dumping duty notice and all price undertakings) in force in relation to HSS exported to Australia from China by certain Chinese exporters.

The Minister accepted this recommendation (public notification of which was made on 3 March 2011) and the measures were subsequently revoked.

2.4.6 Current measures

Following the above-mentioned investigations, there are no current measures on any HSS exported to Australia.

³ [2010] FCAFC 86

3 DOES THE APPLICATION COMPLY WITH SUBSECTION 269TB(4)?

Subsection 269TB(4) requires that the application must:

- be in writing; and
- be in an approved form; and
- contain such information as the form requires; and
- be signed in the manner indicated by the form; and
- be supported by a sufficient part of the Australian industry.

Based on the information submitted by the applicant, Customs and Border Protection considers that the application complies with subsection 269TB(4).

3.1 Approved form

The application is in writing, is in an approved form (a B108 application form), contains such information as the form requires (as discussed in the following sections) and is signed in the manner indicated in the form.

As required by the application form, OneSteel ATM submitted confidential and public record versions of the application. Numerous appendices and attachments were also submitted.

Customs and Border Protection considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information within the confidential application.

3.2 Supported by Australian industry

An application is taken to be supported by a sufficient part of the Australian industry if Customs and Border Protection is satisfied the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50 percent of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25 percent of the total production or manufacture of like goods in Australia.

Within its application, OneSteel ATM has identified the following other Australian producers of HSS:

- Orrcon Operations Pty Ltd (Orrcon); and
- Independent Tube Mills Pty Ltd (ITM).

Neither Orrcon nor ITM has commented on the application.

As required by Appendix A1 of the application form, OneSteel ATM has provided production volumes for each of the Australian producers for FY2011. For Orrcon and ITM, OneSteel ATM has estimated the respective production volumes, based on its own market intelligence.

Based on the evidence provided and Customs and Border Protections understanding of the Australian HSS industry from previous investigations, Customs and Border Protection considers the application is supported by a sufficient part of the Australian industry.

4 IS THERE AN AUSTRALIAN INDUSTRY IN RESPECT OF LIKE GOODS?

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

4.1 Locally produced like goods

Subsection 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.

4.1.1 Applicant's claims

Within its application, OneSteel ATM relies on Customs and Border Protection's previous findings in REP116 (and the later findings of REP153 in relation to HSS exported from China and Malaysia) in asserting that HSS manufactured in Australia is 'like goods' to imported HSS from the nominated countries.

OneSteel ATM maintains that HSS manufactured in Australia possesses similar physical characteristics, manufacturing processes, marketing and distribution channels, and is commercially and functionally substitutable and competes directly with imported HSS from China, Korea, Malaysia, Taiwan and Thailand.

In support of its claims, the applicant submitted a product brochure listing the numerous types of HSS produced and sold by OneSteel ATM.

4.1.2 Customs and Border Protection's assessment

Based on the information provided in the application, and Customs and Border Protection's findings from previous investigations, Customs and Border Protection is satisfied that there is an Australian industry producing like goods to the goods the subject of the application.

4.2 Manufactured in Australia

Subsections 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.

OneSteel ATM has four Australian manufacturing operations, one each in Acacia Ridge (Queensland), Newcastle (New South Wales), Somerton (Victoria) and Port Kembla (New South Wales). The application contains a detailed description of the manufacturing process for HSS undertaken by OneSteel ATM at these operations:

- firstly raw material feed (hot rolled coil (HRC), narrow strip/hot rolled strip (HRS)⁴, pre galvanised HRC or pre galvanised cold rolled coil (CRC)) is

⁴ HRC and HRS collectively referred to as 'hot rolled steel'

unrolled, slit and re-rolled into smaller coils ready for use in the pipe and tube mills;

- slit coil is unrolled and fed into the mills via an accumulator or similar mechanism which allows a continuous flow of slit coil into the production process;
- the slit coil is then "cold formed" through a series of rollers and continuously welded via the electric resistance welding process into hollow round tubular shapes;
- the round tubular shapes are further formed through rollers into round, square, rectangular and other shapes;
- the pipes are then surface finished by applying various protective coatings such as paint, varnish, oil or galvanising (in-line or hot dipped);
- the product is finally cut to length, bundled and placed in racks ready for storage or despatch to customers.

OneSteel ATM has submitted that not all plants apply all types of surface finish to manufactured HSS.

4.2.1 Customs and Border Protection's assessment

Based on the above description of the manufacturing process, Customs and Border Protection is satisfied that there is at least one substantial process of manufacture performed in Australia and, therefore, that the goods may be taken to have been produced in Australia.

4.3 Australian market

4.3.1 Background

In its application, OneSteel ATM's states that HSS is used in a variety of applications in a range of sectors including:

- automotive;
- engineering construction;
- manufacturing;
- mining, oil and gas;
- residential and non-residential construction;
- temporary fencing;
- transport;
- furniture and play equipment; and
- rural applications.

The applicant claims that end-use applications for which HSS may be used include:

- scaffolding and fencing (fixed and temporary);
- trailer frames (boat and box);
- mining equipment;

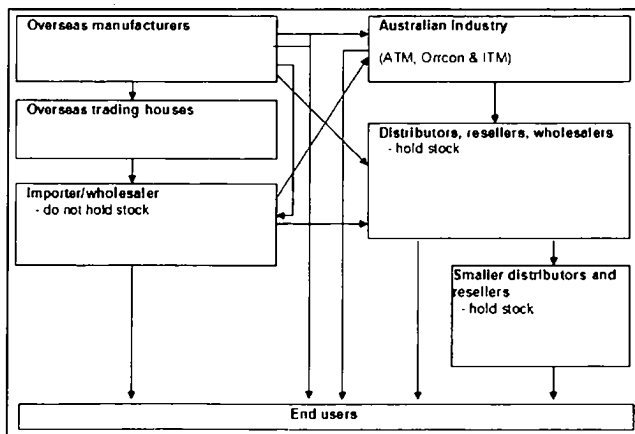
- sign posts;
- playground equipment and shade provision in parks and public spaces;
- architectural finishes in large open span structures (airports, shopping centres, etc);
- major structural engineering applications;
- gates – domestic, industrial, commercial and rural;
- vehicle chassis (bus, truck, etc);
- light manufactured goods;
- gantries that support railway electrification cables;
- domestic, rural, commercial and industrial structures;
- sporting stadiums;
- light fabrication and maintenance work;
- truss systems for roofing within variable structure types; and
- agricultural equipment such as spray systems, hay feeders, cattle crushers, cattle yards etc.

Within its application, OneSteel ATM submits that the Australian HSS market is supplied from local production and imports, with local production sourced from OneSteel ATM, Orrcon and ITM and imports sourced from a range of countries including China, Korea, Malaysia, Taiwan and Thailand as major sources of supply.

4.3.2 Marketing and distribution

OneSteel ATM submits that the Australian HSS market comprises local manufacturers, overseas suppliers, importers, wholesalers, distributors, resellers and end-users.

The application included the below diagram depicting the supply arrangements on the Australian market.



4.3.3 Market segmentation

The applicant stated that HSS is supplied to a diverse range of market sectors (see Section 4.3.1).

The application states that, in terms of geographic segmentation, OneSteel ATM sells and distribute across Australia and that similarly, imported HSS is sold and distributed across Australia.

The applicant further claims that the expansion of the total HSS market over recent years, along with an increase in the number of market participants indicates that product availability and pricing in the HSS market is generally transparent, irrespective of market segment.

4.3.4 Demand variability in the HSS market

In addition to the factors identified in REP116 which noted an "increase in the level of economic activity" as attributing to the growth in the Australian HSS market, the applicant claims that there are factors, which may be regarded as seasonal, that affect the Australian HSS market, including:

- the construction cycle – the months of December and January each year effectively aggregate to one normal month of sales given that the traditional construction industry holiday period falls at this time;
- a take up of sales to the rural sector in May and June each year – driven by the desire of the farming community to resolve any outstanding repairs and maintenance issues prior to the end of the financial year;
- industry behaviour driven by attainment of balance sheet targets for half-year and full-year financial ratios; and
- quarterly pricing of the key feedstock for pipe and tube HRC – in Australia suppliers of HRC invariably negotiate new pricing commencing 1 July, 1 October, 1 January and 1 April each year and that distributors and resellers may consciously attempt to stock-up, or de-stock, ahead of anticipated price rises or falls in the price of HSS products.

Customs and Border Protection further notes that the recent global financial crisis (GFC) caused a contraction in demand for HSS within the Australian market, as considered and discussed in relation to Investigation No. 144 and within TER144A.

4.3.5 Market size

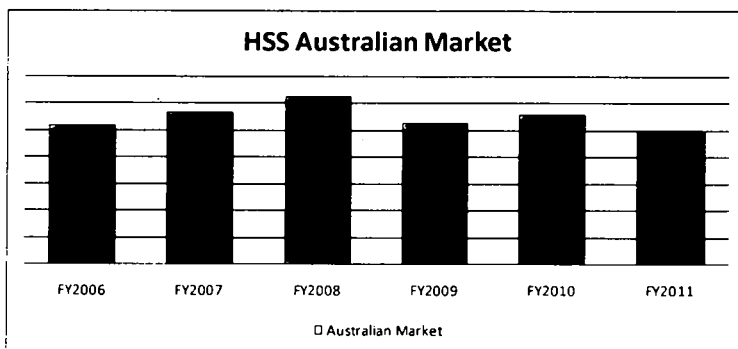
The applicant provided its estimate of the size of the Australian market for HSS at Appendix A2 of the application and summarised indexed movements in the market in section A4 of the application. The data was provided for a five year period for FY2006 to FY2011.

As with the figures in Appendix A1 (see Section 3.2), the data within Appendix A2 for other Australian industry members were based on OneSteel ATM's own market intelligence in relation to Orrcon and ITM's sales volumes and values.

OneSteel ATM submitted that the data for imports of HSS were sourced from figures obtained by OneSteel ATM from an independent data analysis company⁵ (the name of which is considered confidential by OneSteel ATM).

Customs and Border Protection compared the estimates contained in the application to information on its database and found the applicant's estimates to be reasonable (bearing in mind the difficulties encountered with the data in Customs and Border Protection's import database - Section 5.2).

Based on data contained in the application, the graph below shows the preliminary analysis of the total market size of HSS in metric tonnes.



Preliminary analysis of the data contained in the application indicates that imports of HSS from China, Korea, Malaysia, Taiwan and Thailand account for approximately 85% of HSS imports during FY2011.

The graph suggests that the market size of HSS has been increasing between FY2006 and FY2008 then reduced in FY2009. The preliminary analysis also shows that the market size of HSS was reasonably stable between FY2009 and FY2011.

Analysis of the size of the Australian market is at **Confidential Appendix B**.

4.4 Australian industry information

4.4.1 Australian industry's sales

The applicant provided information in the application, including a summary of domestic and export sales volumes, revenue, discounts and rebates as required in Appendices A2, A3, A5 and A6. Customs and Border Protection examined the detail in, and link between, these appendices, and considers them reliable for the purposes of assessing the economic condition of the industry.

As required by Appendix A4, the application includes detailed domestic sales of HSS for FY2011.

⁵ OneSteel ATM submitted that the provided data is based on export volumes from the country of origin rather than imports to Australia, and that some timing differences were thus expected between the provided data and actual import figures.

Customs and Border Protection noted that the detailed sales information comprises transactions made by OneSteel's ATM manufacturing plants to both related and unrelated parties. The related party transactions were between OneSteel ATM and its distribution business.

In order to be satisfied that these related party transactions were reliable and relevant for the purposes of assessing the applicant's injury claims, Customs and Border Protection undertook a benchmark analysis. Customs and Border Protection examined various HSS models sold by OneSteel ATM and calculated monthly weighted average unit prices for the period covering FY2011.

Based on a comparison of prices between related party's and sales made to unrelated parties, Customs and Border Protection considers OneSteel ATM's related party transactions to be reasonable and relevant for the purposes of examining the economic condition of the Australian industry for the purposes of this report.

4.4.2 General accounting/administration information

The applicant provided annual reports for the FY2009 and FY2010 period for its parent company, OneSteel Limited.

OneSteel ATM also provided details of general accounting and administration information.

4.4.3 Cost information

The applicant completed appendix A6 for domestic sales of its own production and its export sales. The information provided included production and sales volumes, manufacturing costs, selling, distribution and administrative expenses and sales volumes from FY2006 to FY2011. The information was also provided for each product finish manufactured by the Australian industry.

Customs and Border Protection examined the information provided and the link between other appendices and considers the information reliable for the purposes of assessing the economic condition of the industry.

4.4.4 Other economic factors

The applicant completed Appendix A7 identifying assets, capital expenditure, research and development expenses, return on investment, capacity, capacity utilisation, productivity, cash flow measures and wages.

The application included indices of revenue variations and employment numbers.

4.4.5 Conclusion – Australian industry

Based on the information in the application, Customs and Border Protection considers that there is an Australian industry producing like goods to the goods the subject of the application and that the data contained in the application is sufficient for the purpose of analysing the economic condition of the industry from 1 July 2007 to 30 June 2011.

5 REASONABLE GROUNDS – DUMPING AND SUBSIDISATION

5.1 Finding

Having regard to the matters contained in the application and to other information considered relevant, there appear to be reasonable grounds to support the claim that:

- HSS has been exported to Australia from China, Korea, Malaysia, Taiwan and Thailand at dumped prices;
- countervailable subsidies have been received in respect of HSS exported to Australia from China; and
- the individual total volume of the goods that have been dumped from China, Korea, Malaysia, Taiwan and Thailand is each greater than 3% of the total Australian import volume of the goods, and therefore not negligible.

5.2 Source of exports

At attachment B-1.4.1 of the application, OneSteel ATM identified producers, exporters and importers of HSS from China, Korea, Malaysia, Taiwan and Thailand.

Within its application, using the data sourced from the independent data analysis company (see Section 4.3.5), OneSteel ATM estimated the volume of imports from China, Korea, Malaysia, Taiwan and Thailand separately, and collectively for all other countries for FY2006 to FY2011.

It was observed that this data was entitled 'Adjusted Quantity', which OneSteel ATM advised was due to the fact that the data had been adjusted by the data analysis company to correct what were considered obvious errors in quantities within the data (e.g. weight incorrectly entered as kilograms instead of tonnes), but that this had affected only approximately 2% of the lines of data.⁶

Within the application, OneSteel ATM observed that the data provided at the time of lodgement was incomplete for April to June 2011 for Malaysia, and for June 2011 for Thailand, and that the presented import volume figures from these countries had been pro-rated for the purposes of the application. It was observed that this practice has also been undertaken for Taiwan's data, which was incomplete for June 2011.

Using the data provided at the time of lodgement, OneSteel ATM estimated the proportion of total imports for each nominated country, and all other countries for FY2011. However, during the period of screening the application, OneSteel ATM advised that it had received updated data from the data analysis company, and provided this to Customs and Border Protection.

⁶ Customs and Border Protection did not consider this adjustment to be unreasonable or unwarranted, having regard to similar apparent errors found within the data in its own imports database, which Customs and Border Protection cleansed in a similar way (see later discussion within this Section).

Customs and Border Protection observed that this revised data included data for all countries up to and including June 2011. Customs and Border Protection used this revised data to re-calculate the above estimates as:

China	Korea	Malaysia	Taiwan	Thailand	Other Countries	Total Imports
41.3%	5.1%	5.1%	8.9%	17.9%	21.7%	100%

Both the above estimates and those provided in the application (based on pro-rated data) indicate that the import volumes for China, Korea, Malaysia, Taiwan and Thailand are each above 3% of the total import volume of the goods during the period July 2010 – June 2011.

To test the accuracy of these estimates, Customs and Border Protection has compared the information submitted in the application with import data from its import database.

In doing so, Customs and Border Protection observed that the data declared in its imports database displayed percentages that are significantly different to those presented by OneSteel ATM within its application, particularly that HSS imported from Korea during FY2011 was below 3% as a total of all imports of HSS within that period, as well as significant differences in the totals of China, Malaysia, Taiwan, Thailand and all other countries, and the import volume total as a whole.

However, Customs and Border Protection observed that the data in its imports database contained certain anomalies, with various unit prices considered to be unusual (likely due to incorrect declared volumes). This analysis, coupled with Customs and Border Protection's understanding of historical HSS import volumes, source countries and average unit prices, has caused Customs and Border Protection to consider that the data declared in its imports database is likely to be distorted.

To address this issue, Customs and Border Protection has cleansed its database data to conduct analysis only on those transactions that it considered represented a reasonable unit price, discounting outliers considered to represent an unreasonably low or high unit price.

Following this cleansing, Customs and Border Protection observed that the data reflected import volumes and proportions that were reasonably similar to the estimates provided by OneSteel ATM, and that import volumes for all source countries and territory⁷ (China, Korea, Malaysia, Taiwan and Thailand) were each above 3%.

Customs and Border Protection therefore considers that, for the purposes of consideration of the application, it is satisfied that exports from China, Korea, Malaysia, Taiwan and Thailand each individually represent in excess of 3% of total import volumes of HSS for the FY2011 period.

⁷ Taiwan is recognised by the WTO as the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

However, Customs and Border Protection notes that a more accurate assessment of these import volumes will need to be conducted during an investigation into HSS from these source countries and territory to confirm these import volumes.

5.3 Dumping from China

OneSteel ATM presented monthly data for period April 2010 to June 2011 to demonstrate that HSS had been exported from China at dumped prices.

5.3.1 Export prices

OneSteel ATM submitted monthly free-on-board (FOB) export prices for HSS exported from China, as reported by the data sourced from the data analysis company (see Section 5.2), converted from \$US to \$AU using the monthly midpoint rate of exchange published by Customs and Border Protection.

These export prices were not segregated into separate finishes, as OneSteel ATM's sourced data is presented as a collective monthly export price and not separated by finish.

Customs and Border Protection has examined the Chinese export prices provided by OneSteel ATM within its application, comparing these to the data within its imports database (once cleansed), noting that the data contained within its import database doesn't clearly differentiate the imported goods by finish.

In performing this cross-check, Customs and Border Protection found that the export prices provided by OneSteel ATM for China do not differ significantly from those contained within the import database.

Customs and Border Protection therefore considers the export prices submitted by OneSteel ATM for China to be reliable, relevant and suitable for establishing reasonable grounds that dumping has occurred for the purposes of initiation of an investigation.

5.3.2 Normal values

Particular market situation claims

OneSteel ATM has submitted that it considers that actual selling prices within the domestic Chinese HSS market are not suitable for establishing normal values in relation to HSS exported to Australia from China as a particular market situation exists in that market.

Legislative provisions

In broad terms, it is generally the case that Customs and Border Protection calculates the normal value of the goods under consideration as the price for like goods sold for home consumption in the country of export (under s.269TAC(1) of the Act). This a price is subject to adjustments under s269TAC(8) to ensure any differences do not affect the comparison with the export price.

One of the exceptions to using domestic selling prices for determining normal values is set out in s269TAC(2)(a)(ii), which broadly provides that the domestic selling prices are not an appropriate basis for normal value if the Minister is satisfied that a situation in the market has rendered domestic selling prices unsuitable for establishing normal values (i.e. a 'particular market situation' exists).

One of these situations may be where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing normal values.

The existence of a particular market situation potentially affects the approach that Customs and Border Protection takes to calculating normal values under the Act in undertaking an assessment of whether goods have been exported to Australia at dumped prices.

Applicant's claims

OneSteel ATM has submitted that it considers that a particular market situation exists in the Chinese HSS market, as HSS prices in China are artificially lower, or not substantially the same as they would be if they were determined in a competitive market, due to a range of factors that directly and indirectly impact prevailing Chinese HSS prices.

At B-4.1.A of its application, OneSteel ATM lists these factors as including:

- provision of raw steel materials (hot rolled steel) at less than adequate remuneration;
- prevalence of state-owned enterprises (SOEs) involved in the manufacture of hot rolled steel in China that receive benefits for the production of hot rolled steel (resulting in artificially low raw material input prices for HSS manufacture in China);
- reduced and/or subsidised energy (i.e. electricity) input prices in the manufacture of hot rolled steel and HSS; and
- benefits received by HSS manufacturers from the Government of China (GOC)⁸ including reductions in taxes, exemptions on duties and VAT, the provision of grants, and concessional interest payments.

OneSteel ATM submits that the collective impact of the above is

...that Chinese HSS prices are lower than they otherwise would be due to the government influence (on raw material input costs and other specific benefits provided).⁹

To support these claims, the applicant refers to past findings of other administrations in relation to exports of various pipe and tube from China (which each form a sub-set category of the larger range of HSS subject to this application), as outlined in the below table.

Country	Investigation Type	Product	Date of finding
Canada	Dumping and Subsidy	Certain carbon steel welded pipe	July 2008 (Canadian Border Services Agency) Aug 2008 (Canadian International Trade Tribunal)
European Union	Dumping	Certain welded tubes and pipe	December 2008
United States	Dumping and Subsidy	Circular welded carbon quality steel pipe	May 2008
United States	Dumping and Subsidy	Light-walled rectangular pipe and tube	May 2008

⁸ This refers to government at all levels in China (including national, provincial and local governments.

⁹ B-4.1 A-1-.2 of the application.

Specifically, OneSteel ATM outlined the 2008 findings of the Canadian Border Services Agency's (CBSA) investigation into carbon steel welded pipe (CSWP) from China, within which the CBSA examined the Chinese CSWP market in line with Section 20 of the Canadian *Special Imports Measures Act* (SIMA).

OneSteel ATM highlights that, after undertaking this enquiry, the CBSA determined that

...the GOC significantly affects the steel industry, including the welded pipe sector, through means other than market forces to the extent that these prices are substantially determined by the GOC¹⁰

and that, subsequently normal values were not able not be determined on the basis of selling prices of CSWP in China (or on the fully absorbed cost to make-and-sell the goods plus an appropriate amount for profit).¹¹

OneSteel ATM summarised the CBSA's reasons (at Section A-1.5 of the application) for making this determination (see **Appendix D** for further discussion of the CBSA's findings).

OneSteel ATM further notes within its application that, within a 2011 reinvestigation of CSWP from China, the CBSA found that the conditions of Section 20 of SIMA continue to apply to CSWP sold in China.

In addition, the applicant specifically referred to the 2008 findings of the European Union (EU) in relation to certain welded pipe and tube from China, highlighting that, within the EU's investigation, exporting parties sought 'market economy treatment' under the EU's provisions, but that the EU rejected these claims for all Chinese producers as they were not able to demonstrate compliance with the EU's established criteria to display the existence of market conditions.

OneSteel ATM specifically highlights that the EU was satisfied that Chinese pipe and tube producers (the goods description of which covers part of the description of HSS covered by this application):

- (i) were subject to significant State interference;*
- (ii) maintained accounts that included irregularities with regard to accounting practices of the companies investigated;*
- (iii) continued to operate with distortions carried over from the non-market economy system*

and that

...the EC therefore considered it appropriate to base normal values on surrogate country information. Domestic pricing information was obtained from USA pipe and tube producers and dumping margins determined.¹²

¹⁰ At B-4.1.A-1.5 of the application (in quoting from Certain carbon steel welded pipe originating in or exported from P R China, Statement of Reasons Confirming the making of final determinations in respect to the dumping and subsidizing of, CBSA, 5 August 2008, 58).

¹¹ At B-4.1.A-1.5 of the application.

¹² At B-4.1.A-1.6 of the application.

Further, OneSteel ATM also submitted a copy of the 2007 report *Money For Metal: A Detailed Examination of Chinese Government Subsidies to its Steel Industry*¹³ (*Money for Metal*) which includes several observations relating to:

- the extent of GOC control, ownership and influence in the Chinese steel sector (including through a range of policies and instruments such as VAT rebate on export changes and direct participation in the decision-making and overall management of steel companies, by installing party members and other government officials as senior officers and directors of steel companies);
- the assertion that there is 'little opportunity' for the pricing of Chinese steel to be independently determined by the market 'on a truly competitive basis'; and
- the range of subsidy programs available to entities within the Chinese steel industry that provide benefits to steel producers that impact prices of the goods.

In addition to the above, later within its application for a countervailing duty notice (in reference to claims that a subsidy program exists whereby SOEs supply hot rolled steel to HSS manufacturers at less than adequate remuneration – see Section 5.8.1) OneSteel ATM makes further claims relating to the alleged influence the GOC exerts over the Chinese hot rolled steel industry, including asserting that prices of Chinese coke (a key ingredient in the manufacture of steel slab or billet which in turn is used in the manufacture of hot rolled steel) is suppressed domestically by a 40% export tax.

OneSteel ATM notes that export taxes on certain Chinese raw materials (including coke) were recently found by the WTO Dispute Settlement Panel (in Reports No's WT/DS394/R, WT/DS395/R and WT/DS398/R, an extract of which is included with the application) to be inconsistent with China's WTO accession protocol.

Customs and Border Protection's Assessment

Customs and Border Protection has assessed OneSteel ATM's claims that a particular market situation exists in the Chinese domestic HSS market, in light of the information contained within the application, and considers there appears to be sufficient evidence within the application to suggest that such a situation exists within the Chinese HSS market, for the purposes of this assessment.

In doing so, particular attention has been paid to the following.

1. The 2008 findings of the CBSA in its examination of CSWP from China (further discussed at **Appendix D**), which have been made in relation to a sub-category of HSS that is subject to this application (CSWP).
2. OneSteel ATM's claims (made both in relation to allegations of a particular market situation and countervailable subsidies) that hot rolled steel is sold domestically within China at prices considered to be at less than adequate remuneration (i.e. below a 'fair market value'), which OneSteel ATM claims results from the fact that

¹³ Riley Rein, July 2007 - included in OneSteel ATM's application as Non-Confidential Attachment at B-4.1.3.

...the GOC actively influences prices in the HRC/HRS industry, through direct and indirect ownership and control, as well as through the use of government policies (e.g. 40% export tax on coke) intended to suppress domestic prices to an extent that they are rendered "artificially low" or not substantially the same as they would be if they were determined in a competitive market.¹⁴

These claims are discussed in further detail in Section 5.8 of this report (in relation to countervailable subsidy claims).

3. OneSteel's claims within the application that numerous other subsidies available from the GOC¹⁵ to the Chinese steel industry (both HSS and other upstream industries) provide benefits that flow through to the domestic selling prices of HSS and possibly render domestic selling prices of the goods unsuitable for the purpose of determining normal values.
4. The observations of the *Money for Metal* report.
5. Claims relating to the existence (and WTO-inconsistency) of export taxes on coke.
6. Submissions (including the Response to the Government Questionnaire) made by the GOC to the 2008 Investigation No. 144 in relation to allegations of market situation in the Chinese HSS market, and receipt of countervailable subsidies by Chinese HSS exporters.

In having regard to the above, Customs and Border Protection considers that the above may reasonably be considered to effect both the steel raw materials market in China, as well as create a particular market situation in the Chinese HSS market.

Customs and Border Protection notes that it has previously undertaken analysis of whether a particular market situation existed in the Chinese HSS market during its 2006 Investigation No 116, and determined there was no such situation in the market that rendered domestic sales unsuitable for establishing normal value.

However, it is noted that the previous investigation and finding (that was made in 2006, examining data from the investigation period of January – December 2005), did not include consideration of the 2008 findings of the CBSA, which have subsequently examined information that was not available to Customs and Border Protection within its 2006 investigation (including circulars, articles and examples of mergers and rationalisations indicating the results of the implementation of China's National Steel Policy, welded pipe VAT changes, and introduction and abolition of an export tax on welded pipe).

It is further noted that, primarily on the basis of the CBSA's 2008 finding, Customs and Border Protection considered that an investigation into whether such a particular market situation existed in the Chinese HSS market was warranted within its 2008 Investigation No. 144, however no final determination on this matter was made within Investigation No. 144 (as the investigation was terminated against Chinese exporters on the basis of no injury being caused to the Australian industry by dumping).

¹⁴ At C-1.1.3.3 of the application.

¹⁵ As discussed in Section 5.8 of this report, Customs and Border Protection considers there are reasonable grounds to consider that benefits have been received under these subsidies and that there are reasonable grounds for the publication of a countervailing duty notice in relation to HSS from China.

Customs and Border Protection will prepare questionnaires for certain interested parties for the purpose of gathering information relevant to establishing whether there is a particular market situation.

Any information on the issue of the suitability of domestic selling prices must be provided in a timely manner to allow Customs and Border Protection to investigate the evidence provided, within the timeframe of the investigation, while ensuring that the requirements of procedural fairness are met.

Constructed normal values

Following the above-discussed prima facie position that a particular market situation makes prices for HSS sold domestically within China unsuitable for determining normal values, OneSteel ATM has submitted within its application that it considers that it is therefore suitable to construct normal values (in line with s.269TAC(2)(c) of the Act).

Methodology

Within its application, OneSteel ATM has constructed normal values for China by:

- using monthly domestic Japanese free-on-truck (excluding delivery) HRC prices from Steel Business Briefing (SBB) in \$US/T;
- converting this HRC price to \$AU/T using the monthly midpoint rate of exchange published by Customs and Border Protection;
- applying a conversion factor¹⁶ to this HRC price (which includes a paint cost component) to cover the value-adding process of converting HRC to HSS to arrive at a constructed painted HSS cost;
- applying a cost of zinc raw materials¹⁷ and deducting an amount for paint costs to arrive at a cost to make HDG HSS;
- adding an amount for selling, general and administrative (SG&A) expenses;¹⁸ and
- including an amount for profit of 5%.¹⁹

OneSteel ATM then calculated average normal values based on an estimated split of painted to HDG HSS imported from China of 20:80.²⁰

OneSteel ATM submits that it is appropriate to use domestic Japanese HRC prices in this construction as the most appropriate benchmark for HRC prices, as it considers that the Japanese steel industry:

- is efficient; and

¹⁶ Which OneSteel ATM considers is indicative of its own conversion factor

¹⁷ Based on OneSteel ATM's 2008 zinc costs, which is reflective of a period that OneSteel ATM considers more reasonably reflects costs than recent periods when production utilisation rates have decreased.

¹⁸ Based on historic OneSteel ATM SG&A costs reflective of a period where sales volumes were at a higher level

¹⁹ Based on information sourced from SinoTrust Business Credit Reports submitted as Confidential Attachment C-1.1.5 to the application that place net profit for the 'steel rolling industry' at 2.23% in 2010, which OneSteel ATM considers is likely to be closer to 5% prior to 'taxes and abnormals'

²⁰ Based on OneSteel ATM's market intelligence and understanding of Chinese imports

- does not suffer from high protection barriers

and because the Japanese price is considered the most reliable domestic price available from published sources.

Customs and Border Protection's assessment

In light of the above assessment that there appears to be sufficient evidence within the application to suggest that such a situation exists within the Chinese HSS market that renders domestic selling prices unsuitable for determining normal values. It is considered reasonable the OneSteel ATM has submitted constructed normal values as a basis of establishing reasonable grounds that dumping has occurred for the purposes of its application.

Customs and Border Protection has examined these calculations as submitted, and considered the suitability of using Japanese domestic HRC prices as the basis for constructing normal values for HSS in China.

In doing so, Customs and Border Protection considered the appropriateness of solely using HRC prices for steel raw material costs, when it is known that Chinese manufacturers of HSS have in the past used varying amounts of narrow strip (which Customs and Border Protection understood is generally cheaper than HRC) as the steel raw material for manufacturing HSS in China.

This issue was raised with the applicants, following which OneSteel ATM submitted its analysis on this point within its provision of further information (on 26 August 2011), displaying that, for FY2011, narrow strip prices in China were comparable (with HRS in fact at times exceeding the cost of HRC).²¹

Customs and Border Protection is satisfied with the reliability of this analysis, and thus the reasonableness of using solely HRC prices as the basis for constructing HSS normal values in China.

Furthermore, Customs and Border Protection considers the use of Japanese domestic HRC prices to be reasonable for the purposes of constructing normal values for Chinese HSS for the reasons provided by the applicant and summarised above.

To test the reasonableness of the other elements of OneSteel ATM's Chinese HSS cost construction, Customs and Border Protection compared and examined the data of various exporters previously verified during Investigation No 144.²²

This comparison has found the verified:

- conversion factor used;
- SG&A expenses;
- net profit; and
- split of painted to galvanised HSS exported

differ substantially from those contained within OneSteel ATM's normal value constructions.

²¹ Based on HRC data sourced from SBB, and HRS price data sourced from a separate Chinese steel price monitoring service – see Section 5.8.1 for further discussion and analysis.

²² Considered the best data available to Customs and Border Protection at this stage.

Customs and Border Protection has therefore amended OneSteel ATM's conversion cost, SG&A expenses, and split of painted to galvanised HSS within its constructed normal value calculations for China to more reasonably align with the previously verified exporters' data.

Customs and Border Protection considered the paint and zinc costs used within OneSteel ATM's calculations were reasonable, and were sufficiently lower than contemporary costs for OneSteel ATM itself.

Further, Customs and Border Protection considers that an adjustment to the constructed normal values for inland transport is warranted to allow fair comparison between these values and the FOB export prices used. However, as this adjustment would have the effect of raising the constructed normal values, these have not been pursued for the purposes of this report.

Customs and Border Protection's revised constructed normal values are lower than those submitted by OneSteel ATM within its application.

5.3.3 Conclusion – dumping from China

OneSteel ATM's application estimates dumping margins for HSS exported to Australia from China at 53%.

Customs and Border Protection has calculated a dumping margin that is lower than that submitted by OneSteel ATM, which falls within the range of 15% to 25%.

Customs and Border Protection considers that the applicant has provided sufficient information to demonstrate that HSS from China has been exported to Australia at dumped prices and that the dumping margin was not negligible.

Customs and Border Protection's analysis is within **Confidential Appendix C**.

5.4 Dumping from Malaysia

OneSteel ATM presented monthly data for period April 2010 to March 2011 to demonstrate that HSS had been exported from Malaysia at dumped prices.

5.4.1 Export prices

In the same manner as described above in relation to export prices from China, OneSteel ATM submitted monthly free-on-board (FOB) export prices for HSS exported from Malaysia, as recorded within the data sourced from the data analysis company. These export prices were not segregated into separate finishes.

Customs and Border Protection has examined the Malaysian export prices provided by OneSteel ATM within its application, comparing these to the data within its imports database (once cleansed). The export prices provided by OneSteel ATM for Malaysia do not differ significantly from those contained within the imports database.

Customs and Border Protection therefore considers the export prices submitted by OneSteel ATM for Malaysia to be reliable, relevant and suitable for establishing reasonable grounds that dumping has occurred for the purposes of initiation of an investigation into HSS exported from Malaysia.

5.4.2 Normal values

OneSteel ATM submitted that it was unable to obtain actual domestic selling prices for HSS sold within Malaysia, noting that this information is considered to be commercially sensitive.

Consequently, OneSteel ATM constructed normal values for HSS in Malaysia in the same way as the construction was undertaken for China (see Section 5.3.2).

However, within its construction of Malaysian normal values, OneSteel ATM:

- included an amount for profit based upon what OneSteel ATM considers to be Hiap Teck Metal's²³ 2007 profit ; and
- calculated weighted average normal values for painted to galvanised HSS based on a ratio of 75:25.

OneSteel ATM submitted that it was appropriate to use Japanese HRC prices for constructing Malaysian normal values as:

- the Japanese market is efficient, not effected by high protection barriers and is considered a reliable published price (see Section 5.3.2);
- the Malaysian HRC market is influenced by a 25% tariff and anti-dumping measures; and
- HRC prices are not available from any source for Malaysia in any case.

Customs and Border Protection's assessment

Customs and Border Protection considers it is reasonable to construct normal values for HSS sold in Malaysia for the purposes of this application, due to the lack of information about actual selling prices, and further considers it is reasonable to use Japanese domestic HRC prices as the basis for this construction (see Section 5.3.2 for discussion of the reasonableness of adopting the Japan domestic HRC price).

The elements of this construction for Malaysia have been considered and compared to the actual verified data of an exporter visited during Investigation No. 144.²⁴

This comparison has found the verified:

- conversion factor used; and
- SG&A expenses

differ substantially from those contained within OneSteel ATM's normal value constructions.

Further, as discussed in Section 5.3.2, Customs and Border Protection considers that OneSteel ATM's included paint and zinc costs are reasonable.

Consequently, Customs and Border Protection has amended OneSteel ATM's conversion cost and SG&A expenses within its constructed normal value

²³ A large Singapore-based metal products manufacturer.

²⁴ Noting that this data is considered the best available to Customs and Border Protection at this stage.

calculations for Malaysia to more reasonably align with the previously verified exporter's data, and has accepted the other construction elements.

Further, as with constructed Chinese normal values, Customs and Border Protection considers that an adjustment for inland transport is warranted, though has not been pursued for the purposes of this report.

Customs and Border Protection's revised constructed normal values for Malaysia are lower than those submitted by OneSteel ATM within its application.

5.4.3 Conclusion – dumping from Malaysia

OneSteel ATM's application estimates dumping margins for HSS exported to Australia from Malaysia at approximately 46%.

Customs and Border Protection has calculated a dumping margin that is lower than that submitted by OneSteel ATM, which falls within the range of 5% to 15%.

Customs and Border Protection considers that the applicant has provided sufficient information to demonstrate that HSS from Malaysia has been exported to Australia at dumped prices and that the dumping margin was not negligible.

Customs and Border Protection's analysis is within **Confidential Appendix C**.

5.5 Dumping from Korea

OneSteel ATM presented monthly data for the period April 2010 to June 2011 to demonstrate that HSS had been exported from Korea at dumped prices.

5.5.1 Export prices

In the same manner as described above in relation to export prices from China, OneSteel ATM submitted monthly free-on-board (FOB) export prices for HSS exported from Korea, as recorded within the data sourced from the data analysis company. As with China, these export prices were not segregated into separate finishes.

Customs and Border Protection has examined the Korean export prices provided by OneSteel ATM within its application, comparing these to the data within its imports database (once cleansed). It is noted that the export prices provided by OneSteel ATM for Korea for several months do not differ significantly from those contained within the imports database.

However, for some months a significant difference between Customs and Border Protection's import database and OneSteel ATM's submitted export prices are noted, but in each case OneSteel ATM's submitted export prices are above the imports database figures, and therefore are not considered by Customs and Border Protection to potentially be too low.

Customs and Border Protection therefore considers the export prices submitted by OneSteel ATM for Korea to be reliable, relevant and suitable for establishing reasonable grounds that dumping has occurred for the purposes of initiation of an investigation into HSS exported from Korea.

5.5.2 Normal values

As with Malaysia, OneSteel ATM submitted that it was unable to obtain actual domestic selling prices for HSS sold within Korea, and constructed normal values

for HSS in Korea in the same way as the construction was undertaken for China. However, within its construction of Korean normal values, OneSteel ATM:

- included an amount for profit of 10% (considered reasonable by OneSteel ATM); and
- considered that no galvanised HSS is exported to Australia from Korea, and thus only used weighted normal values for painted HSS.

OneSteel ATM submitted that it was appropriate to use Japanese HRC prices for constructing Korean normal values as:

- the Japanese market is efficient, not effected by high protection barriers and is considered a reliable published price (see Section 5.3.2);
- HRC prices are not available from any source for Korea in any case.

Customs and Border Protection's assessment

Customs and Border Protection considers that it is reasonable to construct normal values for HSS sold in Korea for the purposes of this application, and that it is reasonable to use Japanese domestic HRC prices as the basis for this construction (see Section 5.3.2).

The elements of this construction for Korea have been considered and compared to the actual verified data of various exporters visited during Investigation No 116.²⁵

This comparison has found the verified:

- conversion factor used;
- SG&A expenses;
- net profit; and
- split of painted to galvanised HSS exported

differ substantially from those contained within OneSteel ATM's normal value constructions.

Further, as discussed in Section 5.3.2, Customs and Border Protection considers that OneSteel ATM's included paint and zinc costs are reasonable.

Consequently, Customs and Border Protection has amended OneSteel ATM's conversion cost, SG&A expenses, profit and split between painted and galvanised HSS within its constructed normal value calculations for Korea to more reasonably align with the previously verified exporter's data, and has accepted the other construction elements.

Further, as with constructed Chinese normal values, Customs and Border Protection considers that an adjustment for inland transport is warranted, though has not been pursued for the purposes of this report.

Customs and Border Protection's revised constructed normal values for Korea are lower than those submitted by OneSteel ATM within its application.

²⁵ Considered the best data available to Customs and Border Protection at this stage.

5.5.3 Conclusion – dumping from Korea

OneSteel ATM's application estimates dumping margins for HSS exported to Australia from Korea at approximately 30%.

Customs and Border Protection has calculated a dumping margin that is lower than that submitted by OneSteel ATM which falls within the range of 5% to 15%.

Customs and Border Protection considers that the applicant has provided sufficient information to demonstrate that HSS from Korea has been exported to Australia at dumped prices and that the dumping margin was not negligible.

Customs and Border Protection's analysis is at Confidential Appendix C.

5.6 Dumping from Taiwan

OneSteel ATM presented monthly data for period April 2010 to June 2011 to demonstrate that HSS had been exported from Taiwan at dumped prices.

5.6.1 Export prices

In the same manner as described above in relation to export prices from China, OneSteel ATM submitted monthly free-on-board (FOB) export prices for HSS exported from Taiwan, as recorded within the data sourced from the data analysis company. As with China, these export prices were not segregated into separate finishes.

Customs and Border Protection has examined the Taiwanese export prices provided by OneSteel ATM within its application, comparing these to the data within its imports database (once cleansed). It is noted that the export prices provided by OneSteel ATM for Taiwan for most months do not differ significantly from those contained within the imports database.

However, for one month, a significant difference between Customs and Border Protection's import database data and OneSteel ATM's submitted export prices is noted, with OneSteel ATM's recorded export price significantly lower than that indicated by Customs and Border Protection's data.

For the purposes of consideration, the import database figure was used to replace OneSteel ATM's export price calculations for this month.

Customs and Border Protection therefore considers the export prices submitted for Taiwan (with one month substituted for Customs and Border Protection's data) to be reliable, relevant and suitable for establishing reasonable grounds that dumping has occurred for the purposes of initiation of an investigation into HSS exported from Korea.

5.6.2 Normal values

As with Malaysia, OneSteel ATM submitted that it was unable to obtain actual domestic selling prices for HSS sold within Taiwan, and constructed normal values for HSS in Taiwan in the same way as the construction was undertaken for China. However, within its construction of Taiwanese normal values, OneSteel ATM included a different amount for profit, being 10% (considered reasonable by OneSteel ATM).

In constructing normal values for Taiwan, the split of painted to galvanised HSS of 72:25 was used.

OneSteel ATM submitted that it was appropriate to use Japanese HRC prices for constructing Taiwanese normal values as:

- the Japanese market is efficient, not effected by high protection barriers and is considered a reliable published price (see Section 5.3.2);
- HRC prices are not available from any source for Taiwan in any case.

Customs and Border Protection's assessment

Customs and Border Protection agrees that it is reasonable to construct normal values for HSS sold in Taiwan for the purposes of this application, and that it is reasonable to use Japanese domestic HRC prices as the basis for this construction.

The elements of this construction for Taiwan have been considered and compared to the actual verified data of various exporters visited during Investigation No 116.²⁶

This comparison has found the verified:

- conversion factor used;
- SG&A expenses;
- net profit; and
- split of painted to galvanised HSS exported

differ substantially from those contained within OneSteel ATM's normal value constructions.

As discussed in Section 5.3.2, Customs and Border Protection considers that OneSteel ATM's included paint and zinc costs are reasonable.

Consequently, Customs and Border Protection has amended OneSteel ATM's conversion cost, SG&A expenses, profit and split between painted and galvanised HSS within its constructed normal value calculations for Taiwan to more reasonably align with the previously verified exporter's data, and has accepted the other construction elements.

Further, as with constructed Chinese normal values, Customs and Border Protection considers that an adjustment for inland transport is warranted, though has not been pursued for the purposes of this report.

Customs and Border Protection's revised constructed normal values for Taiwan are lower than those submitted by OneSteel ATM within its application.

5.6.3 Conclusion – dumping from Taiwan

OneSteel ATM's application estimates dumping margins for HSS exported to Australia from Taiwan at approximately 56%.

Customs and Border Protection has calculated a dumping margin that is lower than that submitted by OneSteel ATM, which falls within the range of 20% to 30%.

²⁶ Noting that this data is considered the best available to Customs and Border Protection at this stage.

Customs and Border Protection considers that the applicant has provided sufficient information to demonstrate that HSS from Taiwan has been exported to Australia at dumped prices and that the dumping margin was not negligible.

Customs and Border Protection's analysis is at Confidential Appendix C.

5.7 Dumping from Thailand

OneSteel ATM presented monthly data for period April 2010 to March 2011 to demonstrate that HSS had been exported from Thailand at dumped prices.

5.7.1 Export prices

In the same manner as described above in relation to export prices from China, OneSteel ATM submitted monthly free-on-board (FOB) export prices for HSS exported from Thailand, as recorded within the data sourced from the data analysis company. As with China, these export prices were not segregated into separate finishes.

Customs and Border Protection has examined the Thai export prices provided by OneSteel ATM within its application, comparing these to the data within its imports database (once cleansed). The export prices provided by OneSteel ATM for Thailand do not differ significantly from those contained within the imports database.

Customs and Border Protection therefore considers the export prices submitted by OneSteel ATM for Thailand to be reliable, relevant and suitable for establishing reasonable grounds that dumping has occurred for the purposes of initiation of an investigation into HSS exported from Thailand.

5.7.2 Normal values

Particular market situation claims

Within its application, OneSteel ATM submits that it considers that Thai domestic prices for HSS are artificially low and hence cannot be used for calculating 'definitive' normal values (i.e. a 'particular market situation' exists in the Thai domestic HSS market that renders domestic selling prices unsuitable for determining normal values under s.269TAC(1) of the Act).

Regardless, OneSteel ATM submitted that, for the purposes of the application and establishing reasonable grounds that dumping has occurred, it has relied on average Thai domestic selling price data (see below), noting this data displays that dumping has occurred in any event.

OneSteel ATM's claims in this regard relate primarily to the claim that Thai domestic prices for HRC are artificially low (the Thai Government setting a ceiling for maximum price of hot rolled coil), and that this necessarily has an effect on the domestic selling prices of HSS due to the fact that a 'significant proportion' of the cost to make and sell HSS is represented by HRC.

This issue is addressed within a report provided by OneSteel ATM that examined the Thai HRC and HSS markets (discussed below), which indicates that this practice of capping the price of HRC in Thailand is currently in place, and has been in place for several years. Further evidence was also provided by OneSteel ATM in

support of the existence of this price capping, including references to the WTO 2003 Trade Policy Review on Thailand (WT/TPR/S/123).

Customs and Border Protection considers that this matter warrants further investigation in relation to HSS exported to Australia from Thailand, but notes that the normal value information based on actual selling prices (discussed below) is sufficient to demonstrate reasonable grounds that dumping has occurred of HSS from Thailand for the purposes of initiation of an investigation into those goods in any event.

Consequently, it is not necessary to make an assessment as to whether there is prima facie evidence of a particular market situation in the Thai domestic HSS market for the purposes of this report and initiation of an investigation into HSS exported to Australia from Thailand.

Customs and Border Protection will prepare questionnaires for certain interested parties for the purpose of gathering information relevant to establishing whether there is a particular market situation.

Normal values based on domestic sales

Within its application, OneSteel ATM submitted average monthly normal values for HSS sold domestically in Thailand during the period April 2010 – March 2011, in \$US/T (converted to \$AU/T using the monthly midpoint rate of exchange published by Customs and Border Protection).

These normal values were presented separately for black/painted HSS (combined) and hot-dipped galvanised HSS.

OneSteel ATM submitted that these normal values reflected average actual domestic selling prices of HSS in Thailand during this period, and were sourced from a recent study and report (and supporting data) of the Thai HSS and HRC markets undertaken by an international market research and intelligence firm.

The report was supplied as Confidential Attachment B-4.1.2 to the application, alongside supporting data (including a price list of a major Thai HSS manufacturer, and selling price data).

The report itself included a summary of average unit selling prices of HSS by type (black/unfinished CHS, black/unfinished RHS, and galvanised HSS) and thickness (mm) in \$US for January – December 2010 and January – February 2011, per 6m length of HSS.

The report stated that these prices were based on prices from four Thai HSS factories, and were exclusive of VAT and transportation costs.

Customs and Border Protection was able to reconcile the summary selling price figures (in per length) within the report to the source data provided. Customs and Border Protection was also able to reconcile the \$US/T average monthly selling prices within OneSteel ATM's dumping margin calculations to the source data.

Using these prices, OneSteel ATM then calculated average normal values based on an estimated split of painted to galvanised HSS imported from Thailand of 50:50 (based on OneSteel ATM's market intelligence and understanding of Thai imports).

Customs and Border Protection's assessment

Customs and Border Protection considers that these submitted normal values are a contemporary and reliable source for OneSteel ATM to rely on in establishing reasonable grounds that dumping has occurred of HSS from Thailand.

However, in considering the reasonableness of the submitted normal value calculations, Customs and Border Protection considered the appropriateness of calculating average normal values based on the 50:50 painted to galvanised split submitted by OneSteel ATM, examining the verified data of various Thai HSS exporters verified within Customs and Border Protection's Investigation No. 116. This submitted split by OneSteel ATM is considered to differ significantly from that observed within the verified exporters' data, and has been amended within the Thai dumping margin calculations.

Further, Customs and Border Protection considers that an adjustment to the Thai normal values for inland transport is warranted to allow fair comparison, though this has not been pursued for the purposes of this report (as this would only raise the normal values and above-negligible dumping has been established in any case).

5.7.3 Conclusion – dumping from Thailand

OneSteel ATM's application estimates dumping margins for HSS exported to Australia from of approximately 17%.

Customs and Border Protection has calculated a dumping margin that is lower than that submitted by OneSteel ATM within its application, though still above the negligible level.

Customs and Border Protection considers that the applicant has provided sufficient information to demonstrate that HSS from Thailand has been exported to Australia at dumped prices and that the dumping margin was not negligible.

Thai dumping calculations and analysis is within **Confidential Appendix C**.

5.8 Subsidisation in China

5.8.1 OneSteel ATM's application

Within the application, OneSteel ATM submits that Chinese producers of the goods have benefited from a range of countervailable subsidies.

In support of this, the applicant relies on:

- the final determination of the CBSA in its 2008 subsidy investigation in respect of CSWP from China; and
- the 2010 findings of Customs and Border Protection from its investigation into certain aluminium extrusions exported to Australia from China (the findings of which are within Trade Measures Report No.148 (REP148)).

In relying on these findings, OneSteel ATM asserts:

- the Canadian subsidy investigation and its findings are relevant to its application and reliable, given the similarities of the products under

investigation²⁷ and its understanding that common Chinese exporters are involved in exporting HSS into the Canadian and Australian markets; and

- countervailable subsidy programs identified and countervailed by Customs and Border Protection in REP148 have likely similarly provided benefits to Chinese exporters of HSS (noting that the GOC has recognised both the Chinese aluminium and steel industries as 'pillar' industries).

Further, the application includes "Business Credit Reports" completed in 2011 for four companies that the applicant believes are exporters of HSS to Australia. The applicant highlights that these reports show that three of these companies have previously been provided with awards and grants, and notes the tax paid by two companies appears to be significantly below the general taxation rate levied in China.

OneSteel ATM also notes the reports indicate that a further company has relocated to a 'high technology investment zone', which the applicant asserts provides income tax reductions and other financial incentives to businesses located in the zone.

Summary of claims – all programs

In relation to the CBSA's CSWP investigation, OneSteel ATM identifies that:

- the CBSA determined 31 subsidy programs to be countervailable in relation to CSWP from China;
- of these, nine programs were established as being received by the four exporters that cooperated with the CBSA's investigation (one of which relates to the provision of hot rolled steel in China by state-owned enterprises at less than adequate remuneration and discussed in detail separately within the application – see below);
- the remaining 22 programs were found to be countervailable by CBSA, though the 'GOC failed to furnish CBSA with details of each'.²⁸

In relation to the aluminium extrusions investigation, OneSteel ATM notes:

- Customs and Border Protection determined 19 investigated subsidy programs were countervailable, and published a countervailing duty notice in respect of these programs; and
- Customs and Border Protection investigated numerous (24) other alleged subsidy programs during the aluminium extrusions investigation that it considered were not countervailable programs in respect of aluminium extrusions (for various reasons).

OneSteel ATM further notes that, of the programs investigated by Customs and Border Protection, 24 programs were investigated and countervailed by the CBSA in the CSWP investigation.

In outlining the above, OneSteel ATM submits that Customs and Border Protection should investigate:

²⁷ As CSWP is a sub-category of the HSS covered by this application.

²⁸ At C-1.1.3.2 of the application.

- all 31 programs found to be countervailable by the CBSA in relation to CSWP (one of which relates specifically to the provision of hot rolled steel in China at less than adequate remuneration, which is addressed separately within the application and discussed below); and
- all programs investigated by Customs and Border Protection during the aluminium extrusions investigation (noting that OneSteel ATM considers that where Customs and Border Protection has not made a positive finding in relation to the additional programs investigated in relation to aluminium extrusions, REP148 does not establish grounds that the program does not apply to Chinese HSS producers).

In submitting this, OneSteel ATM notes that of the 31 programs countervailed by the CBSA in the CSWP investigation, numerous programs were investigated by Customs and Border Protection in the aluminium extrusions investigation.

Summary of claims – hot rolled steel provided at less than adequate remuneration

Within its application, OneSteel ATM submits that a major subsidy program received by Chinese exporters of the goods related to the provision of steel raw materials (in the form of hot rolled steel²⁹) by Chinese SOEs to HSS producers for what is considered less than adequate remuneration (i.e. at a price that is less than what it would have been in the absence of GOC interventions within the Chinese hot rolled steel and related markets).

OneSteel ATM considers that this provision of hot rolled steel by SOEs meets the criteria of a countervailable subsidy, as SOEs in China are considered to be 'public bodies' as per the definition of a subsidy in Article 1.1 of the SCM Agreement.

OneSteel ATM notes that this sale of raw materials by SOEs to CSWP producers was considered by the CBSA to constitute a countervailable subsidy in that investigation, and was subsequently countervailed (being identified as a program that was directly received by the four exporters that cooperated with the CBSA's investigation).

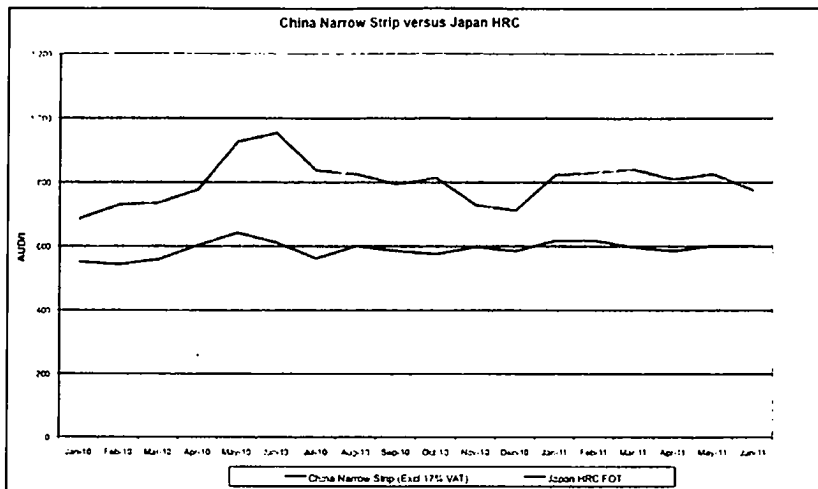
In considering this program, OneSteel ATM asserts Chinese hot rolled steel producers (of which OneSteel asserts a significant proportion are SOEs) received benefits themselves in the form of subsidies that enable these producers to provide hot rolled steel to Chinese HSS producers at artificially low prices.³⁰

OneSteel ATM further asserts that other GOC policies and practices related to the Chinese steel industry affect the price of Chinese hot rolled steel, including the export tax on coke (discussed previously in Section 5.3.2).

To display the asserted difference in price between Chinese steel raw materials and a competitive market price, OneSteel ATM included the below comparison of monthly narrow strip prices in China (exclusive of VAT) between January 2010 and June 2011 and Japanese domestic HRC prices (at free-on-truck (FOT) level) over the same period.

²⁹ HRC and HRS

³⁰ Noting that hot rolled steel accounts for 80-85 percent of the production cost of Chinese HSS (supported by the *Money for Metal* report), and that it may be reasonably concluded that artificially low raw material prices for hot rolled steel in turn cause HSS prices to be below normal competitive market prices



In reference to the above chart, the applicants claim that, Japanese domestic prices are, on average, \$200 (AUD) per tonne (or approximately 26%) higher than reported Chinese HRC prices.

5.8.2 GOC submission

In accordance with s.269TB(2C), Customs and Border Protection invited the GOC for consultations during the pre-initiation phase. The purpose of the consultations was to provide an opportunity for the GOC to respond to the claims made within the application in relation to countervailable subsidies, to clarify the facts of the situation and to arrive at a mutually agreed solution.

The GOC accepted Customs and Border Protection's invitation to undertake consultations, which were held at Customs House in Canberra on 9 September 2011.

Prior to these consultations, the GOC was provided with a non-confidential version of the application and non-confidential attachments. At the meeting, the GOC provided Customs and Border Protection with a confidential submission in response to the application.

General matters discussed

At the outset of consultations, the GOC sought to bring to the attention of Customs and Border Protection, the *Doha Ministerial Decision of 14 November 2001 on Implementation Related Issues and Concerns*, paragraph 7.1 which states that, "investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application".

The GOC highlighted that it was only six months ago that the Minister revoked anti-dumping measures in respect of HSS from certain Chinese exporters (REP153 – see Section 2.4.5 of this report).

The GOC asserted that, as a result of this Doha Ministerial Decision, an investigating authority is obliged to not only take "special care" in considering the application, but to also not initiate an investigation unless circumstances have changed.

In response to the application itself, the GOC submission asserts that the application repeats large blocks of text from the HSS application submitted to Customs and Border Protection in November 2008 (the findings of which are contained in REP144 – see 2.4.3 of this report for further details). The GOC asserted that the application fails to consider current day conditions or developments since the submission of the November 2008 application.

The GOC highlighted a number of alleged errors in the application, which it asserts undermines the application's ability to meet the WTO Agreement's requirement that the application be accurate, adequate and supported by sufficient evidence.

The GOC also submitted that an unreasonable extent of confidentiality has been claimed by the applicant, and provides details of four confidential attachments which it asserts should not be given confidential status, or in the alternative non-confidential summaries should be provided.

The GOC submission also addressed aspects of the application other than the existence of countervailable subsidies including, inter alia, market situation claims, elements of causation and the injury assessment period.

As the intention and purpose of the consultations was to discuss the claims related to countervailable subsidies within the application, Customs and Border Protection has not commented on these submissions of the GOC in this report. However, Customs and Border Protection considered these submissions and does not consider that they change its view as to whether grounds exist to initiate an investigation.

Customs and Border Protection will address the GOC's views in detail in the course of the investigation.

Consideration of countervailable subsidy claims

Following is a summary of the GOC submissions as they related to the issue of countervailable subsidies.

Reliance on findings by the CBSA

The GOC made the following claims with regard to reliance on the Canadian findings on subsidies:

- the GOC observed that 22 of the subsidy programs found to be countervailable subsidies by the CBSA were simply asserted to exist because the CBSA deemed the GOC not to have provided information in respect of these programs; and
- the GOC strongly objected to the use by an applicant of assumptions made by other investigating authorities to initiate a case, where they are based on a lack of evidence.

Reliance on findings by Customs and Border Protection in its aluminium extrusions investigation

In relation to the subsidy programs identified by Customs and Border Protection in its findings in aluminium extrusions, the GOC stated that:

- Customs and Border Protection did not actually find evidence of the payment of many of the 19 claimed "subsidies" to aluminium extruders; and
- that it is not enough for an applicant to rely on findings of subsidies based on no evidence as prime facie evidence for the initiation of an investigation into those subsidies.

Compliance with the WTO Appellate Body decision in Report DS379

In relation to the alleged subsidy program 'Hot rolled steel provided by government at less than fair market value', the GOC submits that, within its application, the applicant has not grounded its allegations in the form of the tests enunciated by the WTO Appellate Body in its recent findings within the DS379 case.

In particular, the GOC submitted that no evidence of 'meaningful control' by the Chinese government of state owned enterprises has been provided, nor is it apparent what 'government functions' it is said that Chinese State-invested enterprises perform or have had vested in them.

5.8.3 Customs and Border Protection's Assessment

Customs and Border Protection has reviewed its findings within REP148, published in relation to its final determination on subsidies investigated in respect of aluminium extrusions exported to Australia from China, and the findings of the CBSA within its 2008 CSWP investigation.

Additionally, Customs and Border Protection has had regard to the findings of its recent *Reinvestigation of Certain Findings in Report No. 148* (contained within Trade Measures Report No. 175), which reinvestigated whether SOE suppliers of primary aluminium in China are public bodies for the purposes of s.269T.

All considered programs, and Customs and Border Protection's determinations in relation to each, are listed in **Appendix E** to this report.

General programs

Aluminium extrusions programs (REP148)

Customs and Border Protection considers that, for 18 of the 19 programs countervailed within the aluminium extrusions investigation, there appears to be reasonable grounds for the publication of a countervailing duty notice for these programs in relation to HSS. Consequently, Customs and Border Protection considers that investigations into these 18 programs should be initiated.

In making this determination, Customs and Border Protection notes its findings within REP148 that these programs meet the definition of a subsidy as defined in s.269T and are considered to be countervailable subsidies in line with s.269TAAC.

Customs and Border Protection also considers that these programs may still be in operation in China, and that due to:

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- the nature of the goods and its manufacturing process; and
- the number of potential exporters identified by Customs and Border Protection in its preliminary research of imports, and the likelihood that at least some exporters will meet the eligibility criteria for each program;³¹

it is possible that exporters of HSS have received benefits under each program, and hence their investigation is warranted.

Customs and Border Protection considers that the remaining one countervailed program within REP148 (*Goods (primary aluminium) provided at less than adequate remuneration*) is specific to the Chinese aluminium market and hence not applicable to HSS (though a corresponding program in relation to hot rolled steel countervailed by the CBSA has been considered – see below).

Of the remaining 24 programs investigated (but not countervailed) by Customs and Border Protection within the aluminium extrusions investigation, it is considered that investigations into these programs in relation to the goods should not be initiated.

Of these programs:

- 12 programs were found to no longer be in existence during the aluminium extrusions investigation;³²
- five programs were found to be duplicates of other investigated programs and determined not to warrant separate investigation (one of which was found to be a duplicate of a program not countervailed on the basis that it no longer exists);³³
- one program was found not to be granted by the GOC (i.e. the GOC is not the granting authority);
- insufficient evidence was gathered to determine countervailable subsidy could be established for two programs; and
- the remaining four programs examined were not countervailed in relation to aluminium extrusions because extruders were considered unlikely to be eligible for these programs.

In relation to these final four programs, Customs and Border Protection has reviewed the eligibility criteria of these programs, and considers that HSS manufacturers are also unlikely to be eligible for these programs having regard to the nature of the HSS product and production process, and the eligibility criteria for these programs.

CBSA CSWP Findings

Customs and Border Protection has examined information within its import database, and notes that this supports the applicant's assertion that at least some of the co-operating exporters found by the CBSA to be receiving countervailable

³¹ Including the potential for at least some of these to be located in various regions and provinces in China, to be foreign-invested enterprises, or be otherwise eligible for specific programs.

³² Evidence to suggest these programs are not duplicates has not been furnished.

³³ Evidence to suggest these programs are in fact still in existence has not been furnished.

subsidies in its investigation into CSWP are also exporters of HSS to Australia, and therefore considers it likely that benefits were received under programs by these exporting companies in relation to HSS exported to Australia from China.

However, in considering the 31 programs found to be countervailable by the CBSA in the CSWP investigation, Customs and Border Protection has found that 26 programs are considered to be equivalents of those examined within the aluminium extrusions investigation. Consequently, these programs have been considered by Customs and Border Protection in its assessment of the findings of the aluminium extrusions investigation above.

In relation to the remaining five programs of the CBSA investigation, two programs are considered to warrant investigation (one of which relates to the provision of hot rolled steel for less than adequate remuneration and is discussed separately below).³⁴

For the remaining three programs:

- one program was identified by the CBSA in its CSWP findings as ceasing effect on, 1 January 2008, and is therefore is considered to not have been available to HSS producers in the investigation period of FY2011;³⁵ and
- it is considered that the CBSA statement of reasons does not contain sufficient information to enable Customs and Border Protection to consider that there to be reasonable grounds that two programs are countervailable subsidies in accordance with s.269T and s.269TACC.

Consequently, Customs and Border Protection considers that investigations into these three programs should not be initiated.

Hot rolled steel provided at less than adequate remuneration

Within its investigation into CSWP from China, the CBSA considered that hot rolled steel was purchased by exporters of HSS to Canada from SOEs at a price considered to be less than its fair market value, and that this was considered to be a countervailable subsidy.

Customs and Border Protection has examined the evidence provided to suggest that Chinese hot rolled steel prices have maintained prices that are considerably below the competitive Japanese price for HRC.

In doing so, Customs and Border Protection notes that, in making such a comparison, it is reasonable to compare Chinese HRS prices with foreign HRC prices, as OneSteel ATM has demonstrated that Chinese HRS and HRC prices are comparable (as discussed in Section 5.3.2 of this report).

However, Customs and Border Protection notes that the comparison within the application (reproduced in the 'China Narrow Strip versus Japan HRC' chart above) would likely need to be adjusted for differences in taxation between the Chinese HRS price (VAT-exclusive) and the Japanese HRC price (FOT).

³⁴ The other is entitled 'Grant for key enterprises in equipment manufacturing industry of Zhongshan' – see Section 5.8.4 and Appendix E.

³⁵ Noting any benefits received under the program prior to the program's cessation would not apply to FY2011 as the program in question is a taxation program which benefits received under would have been expensed in the year of benefit.

Regardless it is considered that any such adjustment would still display that the Japanese HRC price has remained consistently above the Chinese HRS price, as the current comparison shows a difference of approximately 26% over the period January 2010 – June 2011.

Consequently, having particular regard to:

- the comparison between Chinese HRS and Japanese HRC prices;
- the assertion (discussed throughout this report) that the domestic Chinese hot rolled steel prices are affected by GOC influence that causes these prices to be lower than they would have been without these influences; and
- the notion (asserted both within the text of the application and within the attached *Money for Metal* report, and confirmed by Customs and Border Protection's understanding from previous investigations and independent research), that SOEs are significant suppliers of hot rolled steel to Chinese HSS manufacturers and exporters;³⁶

Customs and Border Protection considers it likely that Chinese exporters of the goods have purchased hot rolled steel in China from SOEs, and that this price can reasonably be considered to be less than adequate remuneration.

However, in considering whether there appears to be reasonable grounds that the above provision of hot rolled steel by SOEs constitutes a subsidy (under s.269T), Customs and Border Protection notes the 2011 findings of the WTO Appellate Body in the *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Product from China* case (DS379).

In this case, the WTO Appellate Body considered the meaning of 'public body' under Article 1.1 of the SCM Agreement, and rejected a finding of entities being public bodies on the basis of mere formal links between an entity and government and/or the mere fact that a government is the majority shareholder of an entity. In making this finding, the WTO Appellate Body has directed investigators to carefully evaluate the entity in question (in this case SOEs producing hot rolled steel) in order to identify their common features and relationship with government, having regard, in particular, to whether the entity exercises authority on behalf of government.

Customs and Border Protection observes that the 2008 finding by the CBSA was based on a finding that Chinese SOEs are public bodies without considering the DS379 methodology (as the CSWP finding was made well before the DS379 findings).

Customs and Border Protection notes the application addresses this decision of the WTO Appellate Body, and includes a commentary of GOC influence in the Chinese steel industry in the *Money for Metal* report, as discussed in Section 5.3.2.

Within *Money for Metal*, it is reported that the GOC adopts various methods and mechanisms to maintain control over the steel industry to achieve governmental aims, including directing and controlling the Chinese steel industry through various

³⁶ OneSteel ATM notes in its application that in 2006, the OECD estimated that SOEs accounted for approximately 57% of total Chinese steel production, but also that it is understood this figure is in fact much higher.

detailed policy instruments and other incentive programs (i.e. subsidies), and through direct participation in the decision-making and overall management of steel companies, by installing party members and other government officials as senior officers and directors of steel companies.

It is considered that this report thereby provides evidence to support the assertion that SOEs producing hot rolled steel are public bodies (as interpreted by the WTO Appellate Body in DS379).

Further, in considering the issue of whether SOEs that produce and supply hot rolled steel in China are public bodies, Customs and Border Protection has also had regard to the recent determinations of the aluminium extrusions reinvestigation contained in REP175.

This reinvestigation considered whether SOEs in the aluminium industry could be regarded as public bodies in light of the ruling in DS379, and examined (among other things) the role of the Chinese State-Owned Assets Supervision and Administration Commission (SASAC) in relation to Chinese SOEs generally, and considered that evidence existed to suggest that the GOC exerts a degree of control over SOEs through SASAC.

Customs and Border Protection therefore considers that there appears to be reasonable grounds for the publication of a countervailing duty notice in relation to this program in relation to HSS, and considers that investigations into this program should be initiated.

Assessment of GOC Submission

Doha Ministerial Direction - Implementation Related Issues and Concerns

In response to the GOC's submission, Customs and Border Protection has examined paragraph 7.1 of the abovementioned Doha Ministerial Direction (see Section 5.8.2), and considers that its assessment of the application complies with its terms.

In particular, Customs and Border Protection has assessed the application and considers there is evidence indicating the following circumstances have changed since its review of anti-dumping measures (REP153), which reviewed the period 1 January 2008 to 31 December 2008:

- the applicant claims that since the end of the GFC there has been a surge in the volume of dumped imports from the countries nominated in its application, which has displaced Australian industry sales;
- the applicant further claims that, whereas the findings REP144A indicated the profit performance in the first three quarters of 2008 was consistent with profit levels achieved in FY2005, the current application demonstrates a fall of profits from FY2008.

Customs and Border Protection notes that while the review of anti-dumping measures (REP153) examined certain exporters from China, the current application seeks to investigate all exporters of the goods from China, Korea, Malaysia, Taiwan and Thailand. Section 269TAE(2C) of the Act, allows the Minister to cumulatively assess the effects of exports of the goods to Australia from different

countries and territories, and hence an investigation following from the current application may involve different considerations.

Customs and Border Protection has taken special care in considering the application and for the reasons noted above, considers that circumstances have changed and that the current application may involve different considerations from the review of anti-dumping measures (REP153).

Claims of repetition, errors and confidentiality issues within the application

Customs and Border Protection has reviewed the GOC claims concerning repetition of the previous 2008 application lodged by members of the Australian industry, errors within the application, and issues of excessive claims of confidentiality (noting that many of these claims relate to the claims of material injury caused by dumping and subsidisation of exported HSS).

Customs and Border Protection has examined the claims contained in the application and considers that these claims indicate changes in the market conditions since the end of the GFC (noted above, in relation to the Doha Ministerial Direction) that differ sufficiently from the period previously examined Customs and Border Protection in its investigation (REP144A) and review (REP 153) which examined the calendar year 2008. Customs and Border Protection acknowledges that there maybe errors within the application, however Customs and Border Protections independent analysis demonstrates that there is reasonable grounds for the publication of dumping and countervailing duty notices.

Customs and Border Protection further considers that the application complies with the requirements of section 269ZJ(2) such that the application contains sufficient detail to allow a reasonable understanding of the substance of the information claimed by the applicant to be confidential.

Countervailing matters

The GOC claims that for those subsidy programs countervailed by the CBSA based on a lack of information, the CBSA's findings are insufficient for the purposes of initiating investigations in relation to these programs.

The GOC has further submitted that Customs and Border Protection should not rely on its findings in the aluminium extrusions investigation, because for many of the 19 subsidies that Customs and Border Protection countervailed in that case, Customs and Border Protection did not find positive evidence that these subsidies were received by non-cooperating exporters.

Customs and Border Protection notes generally that, where another administration makes positive findings in relation to an alleged subsidy program that demonstrate that evidence gathered indicates the existence and countervailability of a subsidy program under the Act (i.e. that it meets the requirements of s.269T and s.269TAAC), Customs and Border Protection may initiate investigations in relation to that program where it is considered that benefits under that program may have been conferred in relation to the specific goods subject of the application.

Regardless, Customs and Border Protection notes that, of the 20 programs it intends to initiate investigations on in relation to HSS (see Section 5.8.4), 18 were examined by Customs and Border Protection itself in detail during the recent aluminium extrusions investigation (REP148), during which it made independent findings based on positive evidence that these programs exist and meet the definition of countervailable subsidies for each program.

Customs and Border Protection considers that this analysis within REP148 demonstrates that these countervailable programs are available within China to manufacturers/exporters, and thus have potentially conferred benefits to manufacturers/exporters of HSS to Australia. As such it is considered that the findings of REP148 in relation to each of these 18 programs may be relied upon for the purposes of initiation of investigations in relation to HSS.

For the remaining two programs that Customs and Border Protection intends to investigate in relation to HSS (CBSA programs 4³⁷ and 9,³⁸ refer to Appendix E) that were not examined by Customs and Border Protection within its aluminium extrusions investigation, Customs and Border Protection notes that the CBSA findings in relation to these programs were based on positive evidence that cooperative exporters had received benefits under these programs and that the programs met the requirements to be considered countervailable subsidies in line with the SCM Agreement (and thus in line with s.269T and s.269TAAC of the Act).

Further, in relation to one of these programs 'Hot rolled steel provided by government at less than fair market value', Customs and Border Protection considers that the evidence provided by OneSteel ATM within its application is sufficient to establish that there appears to be reasonable grounds for publication of a countervailing duty notice, noting the reference terms established by the WTO Appellate Body in DS379 in respect of findings of public bodies (see Section 5.8.1 for further discussion of this program).

5.8.4 Conclusion – subsidisation in China

Customs and Border Protection considers that the following are countervailable subsidy programs available to Chinese producers of HSS:

1. Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones
2. One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'
3. Provincial Scientific Development Plan Fund
4. Export Brand Development Fund
5. Matching Funds for International Market Development for Small and Medium Enterprises

³⁷ Grant for key enterprises in equipment manufacturing industry of Zhongshan

³⁸ Hot rolled steel provided by government at less than fair market value

6. Superstar Enterprise Grant
7. Research & Development (R&D) Assistance Grant
8. Patent Award of Guangdong Province
9. Training Program for Rural Surplus Labour Force Transfer Employment
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
11. Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)
12. Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai
13. Preferential Tax Policies in the Western Regions
14. Tariff and VAT Exemptions on Imported Materials and Equipments
15. Innovative Experimental Enterprise Grant
16. Special Support Fund for Non State-Owned Enterprises
17. Venture Investment Fund of Hi-Tech Industry
18. Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.
19. Grant for key enterprises in equipment manufacturing industry of Zhongshan
20. Hot rolled steel provided by government at less than fair market value

Customs and Border Protection is also satisfied following preliminary analysis of:

- the benefits received under certain subsidies by exporters within its investigation into aluminium extrusions from China;
- the CBSA's findings in the CSWP case; and
- the difference between Japanese HRC and Chinese HRS prices demonstrated within the application and the likelihood that a significant proportion of hot rolled steel has been purchased by HSS manufacturers from public bodies (due to their prevalence in the Chinese steel market);

that the benefit received by Chinese exporters under these programs is likely to result in subsidy margins that are above negligible levels.

Consequently, Customs and Border Protection considers that investigations into these 20 programs should be initiated

It is noted that the initiation of investigations into the above-listed programs does not preclude Customs and Border Protection from examining additional subsidy programs should further information be provided or otherwise come to light within a reasonable timeframe.

6 REASONABLE GROUNDS – MATERIAL INJURY CAUSED BY DUMPED AND SUBSIDISED IMPORTS

Customs and Border Protection is satisfied that there appears to be reasonable grounds to support the claim that HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand at allegedly dumped and subsidised prices from China have caused material injury to the Australian industry.

6.1 Legislative framework

Subsection 269TC(1) requires that the CEO must reject an application for a dumping duty notice or a countervailing duty notice if, inter alia, he is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice or a countervailing duty notice respectively.

Under sections 269TG and 269TJ, one of the matters that the relevant Minister must be satisfied of to publish a dumping duty notice or a countervailing duty notice is that, because of dumping of the goods or their receipt of countervailable subsidies, material injury has been or is being caused or is threatened to the Australian industry producing like goods.

6.2 Approach to injury analysis

The application states that OneSteel ATM's financial year is from 1 July to 30 June. Financial years have been used for the below injury assessment and analysis.

Customs and Border Protection notes that the data provided by OneSteel ATM in its application is broken down into the different kinds of finishes. However, for the purpose of assessing reasonable grounds of injury and causal link in this section, total aggregated figures have been used since import data is not available by finish.

Analysis of the individual finish will be undertaken during the investigation.

As stated in section 3.2 above, the Australian HSS industry comprises of two HSS manufacturers other than OneSteel ATM, namely Orrcon and ITM. The applicant has estimated sales volume by Orrcon and ITM for the purpose of determining the Australian industry's sales volume.

However, for the purpose of analysing price, profit and profitability, only the applicant's price and cost data, which represents the majority of the Australian industry by volume, has been used.

Detailed analysis of injury to the whole industry will be undertaken during the investigation.

In this section, sales by the applicant include sales of imported HSS, and imports of HSS exclude that imported by the applicant itself. Furthermore, the import volume analysis is based on data contained in the application and, to preserve confidentiality, the figures for China, Korea, Malaysia, Taiwan and Thailand have been aggregated.

The analysis contained in this section is at **Confidential Appendix F**.

6.3 Cumulation of injury

Subsection 269TAE(2C) provides for consideration of the cumulative effect of exports from different countries, if, after having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced

the Minister is satisfied that it is appropriate to do so.

The conditions of competition between imported and domestically produced HSS appear to be similar.

OneSteel ATM claims that it has been unable to increase prices to recover increased costs as a result of price undercutting by imports of HSS from each of the nominated countries.

The information contained in Customs and Border Protection's imports database indicates that some importers of HSS have imported from a number of the nominated countries. It is considered that this indicates that the products are used by the same or similar customers.

The goods are alike, have similar specifications and end-uses, and compete in the same markets.

Customs and Border Protection considers that conditions of competition are such that it is appropriate to consider the cumulative effect of the allegedly dumped and subsidised imports.

Therefore, it is considered appropriate to consider the cumulative effect of the allegedly dumped and subsidised imports.

6.4 The applicant's injury claims

OneSteel ATM has discussed injury suffered by the Australian industry in the form of:

- lost sales volumes and reductions in market share;
- price depression and suppression;
- price undercutting;
- lost profits and profitability;
- reduced return on investment;
- reduced attractiveness to reinvest;
- reduced employment;
- reduced plant utilisation rates;
- reduced forward orders, cash flows and inventory levels.

6.5 Commencement of injury

OneSteel ATM has not explicitly stated within its application when it considers the material injury from the dumped and subsidised imports commenced. However, it

seems that the applicant claims to have experienced material injury for the purpose of this application from dumped and subsidised exports of HSS to Australia from China, Korea, Malaysia, Taiwan and Thailand from FY2006.

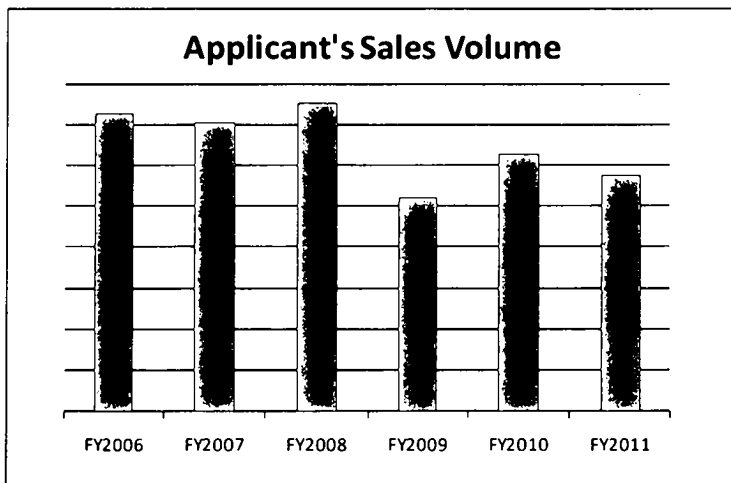
Nonetheless, the applicant states that although it does not agree with the 2008 findings of TER144A that exports of HSS at dumped and subsidised prices did not cause material injury to the Australian industry, it concedes that the profit of the Australian industry in the first three quarters of 2008 was consistent with the level of profit achieved in FY2005.

However, the applicant asserts that the data in the application shows a deterioration of profits following FY2008.

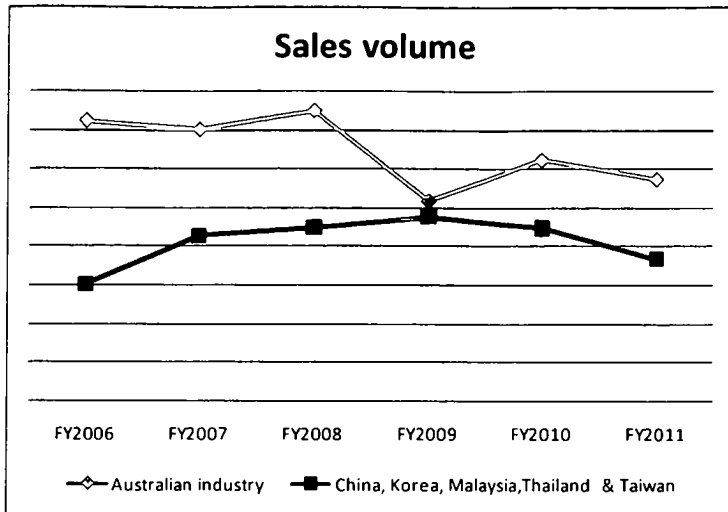
6.6 Volume effects

6.6.1 Customs and Border Protection's assessment

The following graph illustrates the total sales volume (including imports) of HSS in metric tonnes by the Australian industry based on the data contained in the application.

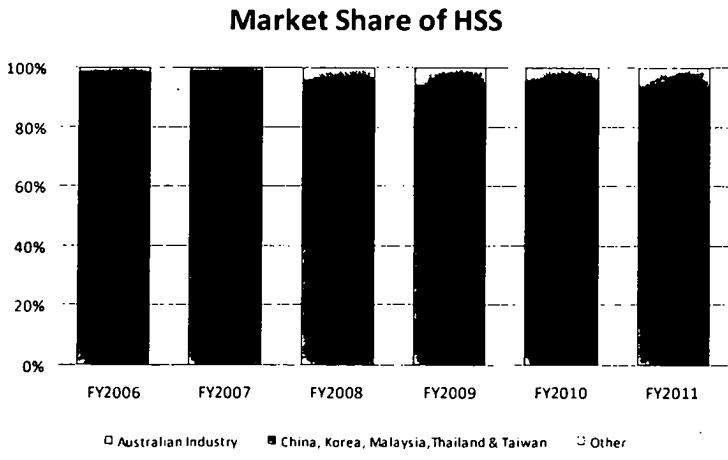


The following graph shows the volumes of Australian industry sales and dumped and subsidised imports from China, Korea, Malaysia, Taiwan and Thailand between FY2006 to FY2011.



The following graph illustrates the market share of HSS in metric tonnes are broken down into:

- sales by the Australian industry (including imports by the applicant);
- imports of HSS at allegedly dumped and/or subsidised prices from China, Korea, Malaysia, Taiwan and Thailand; and
- imports of HSS from other countries.



The graphs above show that the Australian industry's sales volume experienced a substantial reduction in FY2009, which recovered in FY2010 before declining again in FY2011.

The above analysis displays that Australian industry's sales volume has decreased between FY2006 and FY2011, while dumped and subsidised import volumes have increased displacing the sales volume of the Australian industry.

Consequently, it appears that the Australian industry lost overall market share between FY2006 and FY2011 to allegedly dumped and subsidised imports.

6.6.2 Conclusion – volume effects

Based on this analysis, there appear to be reasonable grounds to support the claim that dumped and subsidised imports have caused injury to the Australian industry in the form of lost sales volume and market share by displacing the sales volume of the Australian industry.

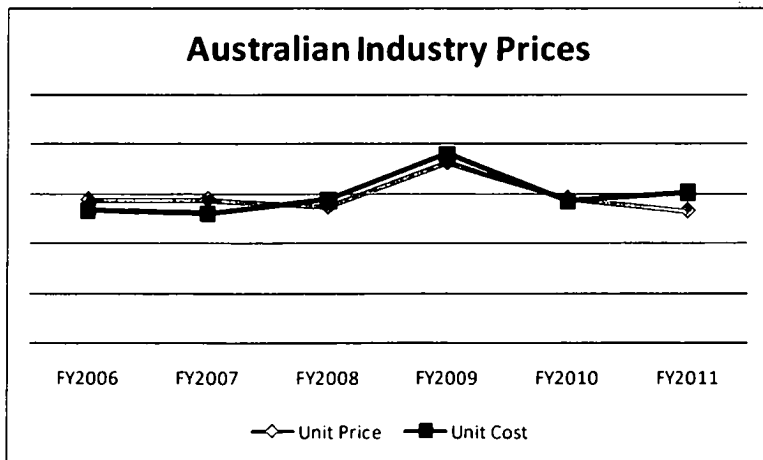
6.7 Price effects

6.7.1 Customs and Border Protection's assessment

Price depression occurs when a company, for some reason, lowers its prices.

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The following graph illustrates the applicant's unit selling price and unit cost to make and sell based on data contained in the application.



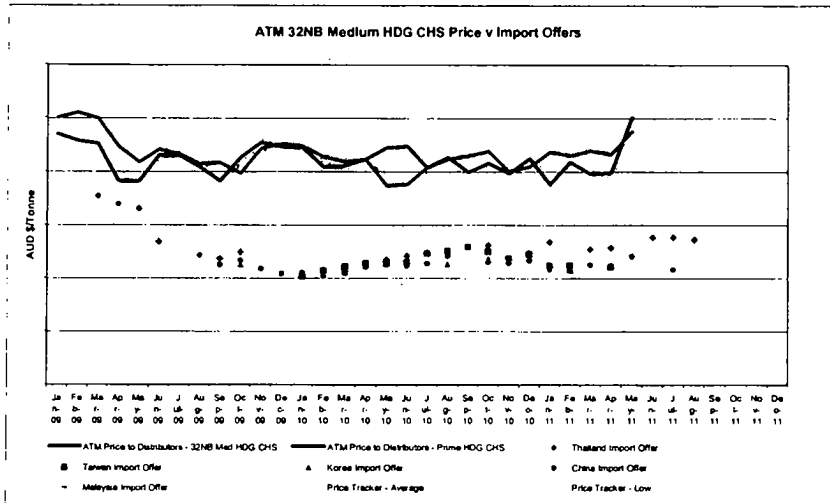
The graph shows that unit prices decreased between FY2006 and FY2008 then spiked in FY2009 before declining again in FY2010 and FY2011.

The graph also suggests that the applicant's prices were suppressed in FY2008, FY2009 and FY2011 as the applicant was not able to increase its selling prices to recover its costs.

The applicant claims that the price depression and price suppression shown above was caused by dumped and subsidised imports undercutting its selling prices. It provided evidence in the application to support this claim with data from its 'competitive offers database'.

The application explains that the 'competitive offers database' includes intelligence of import offers collected through price negotiations with OneSteel ATM's customers.

The applicant provided competitive data for HDG CHS as an example and included the following graph that compares the applicant's price to offers of imported HSS.



As demonstrated in the graph above, the applicant's prices have been consistently undercut by offers of imported HSS during 2009 and 2010.

Furthermore, OneSteel ATM claims that the decline in production and sales volumes due to dumped and subsidised imports (as discussed in section 6.6 above) has resulted in higher fixed and overhead costs per unit contributing to price suppression experienced by the applicant.

6.7.2 Conclusion – price effects

Based on this analysis, there appear to be reasonable grounds to support the claim that dumped and subsidised imports have caused injury to the applicant in the form of price depression and price suppression by undercutting the applicant's selling prices.

6.8 Profit and Profitability effects

6.8.1 Customs and Border Protection's assessment

The following table shows an index of the applicant's profit and profitability based on the data contained in the application.

Index of profit variations (per metric tonne)

Period	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011
Index	100	140.38	-75.35	-89.95	25.07	-196.05

Index of Profitability variations (based on unit profit as a % of unit selling price)

Period	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011
Index	100	139.83	-79.24	-71.18	24.81	-212.74

The indices show that OneSteel ATM's profit was positive in FY2010 after making losses in FY2008 and FY2009, albeit well below the profit level of FY2007. In FY2011 OneSteel ATM's profit and profitability declined sharply incurring a significant loss.

As discussed above, it appears that dumping and subsidisation has caused injury to the applicant in the form of lost volume and price suppression. As profit is a function of volume and profit margin, it appears that dumping and subsidisation has also caused the applicant to incur losses.

The combination of increased volume of allegedly dumped and subsidised imports displacing the applicant's sales volume, and undercutting by allegedly dumped and subsidised imports preventing the applicant from recovering costs, has led to the applicant's injury in the form of lost profit and profitability.

6.8.2 Conclusion – profit and profitability effects

Based on this analysis, there appear to be reasonable grounds to support the claim that dumped and subsidised imports have caused injury to the applicant in the form of reduced profit and profitability.

6.9 Other economic factors

The applicant completed an Appendix A7, which looks at other injury factors. The application includes movements in return on investment, value of assets, capital investment, sales revenue, capacity utilisation, employment numbers and productivity, which generally fell between FY2008 and FY2011.

The data provided by OneSteel ATM indicates:

- return on investment increased in FY2009 from FY2008 then fell in FY2010 and declined sharply in FY2011;
- value of assets used in the production of HSS increased significantly in FY2008 from FY2007 but has declined from FY2009 to FY2011;

- capital investment for the production of HSS has been declining since FY2007 and continued to decline sharply in FY2010 and FY2011;
- there has been no expenditure on R&D of HSS after FY2006;
- sales revenue of HSS decreased between FY2008 and 2009, then increased in FY2010 and decreased again in FY2011;
- capacity utilisation of HSS was on a declining trend from FY2007 to FY2009, then increased in FY2010 and decreased again in FY2011;
- the number of workers associated with the production of HSS employed declined sharply in FY2009 compared to FY2008 and continued to decline in FY2010 and FY2011; and
- productivity significantly decreased in FY2009 from FY2008 then recovered in FY2010 and again decreased in FY2011.

6.10 Factors other than dumping

Preliminary analysis of the application indicates that there may be factors other than dumping and countervailable subsidies causing injury to the Australian industry, namely the effects of the GFC and the appreciating Australian dollar.

Within its application, OneSteel ATM highlighted the impact of weak economic conditions during the GFC and the contraction in world markets. OneSteel ATM explained that HSS market suffered contractions in the last quarter of 2008 and the first half of 2009 and continues to experience a reduction in sales of local production in FY2010 and FY2011.

Within the application, the applicant recognises that the appreciation of the Australian dollar in FY2010 and FY2011 has improved the competitiveness of imported HSS from China, Korea, Malaysia, Taiwan and Thailand. However, it considers that in the absence of the dumping and subsidisation, it would not have experienced the material injury.

Customs and Border Protection considers these arguments to be reasonable and will further analyse the effects of these factors, and any other factors, on injury to the Australian industry during the investigation.

6.11 Comparison of export price and non injurious price

Unsuppressed Selling Price (USP) and Non-Injurious Price (NIP) issues are examined at an early stage of an investigation and, where possible and appropriate, preliminary examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice and countervailing duty notice.³⁹

The NIP is the minimum price necessary to prevent injury to the Australian industry producing like goods.⁴⁰

³⁹ Subsection 269TC(1)(c)

⁴⁰ Subsection 269TACA(a)

Customs and Border Protection generally derives the NIP by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping and subsidies. This price is referred to as the USP.

Customs and Border Protection's approach to establishing USPs observes the following hierarchy:

- industry selling prices at a time unaffected by dumping and subsidies; or
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of undumped/unsubsidised imports.

Having calculated the USP, Customs and Border Protection then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia.

These deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

The applicant has not provided USP or NIP estimates as this is not required by the application form. However, it is considered appropriate to compare the allegedly dumped and subsidised export prices to NIP estimates for the purposes of this report.

If the export prices are greater than the NIP, it would suggest that dumping and subsidies may not be causing material injury. If, on the other hand, the export prices are lower than the NIP, this would support a finding that dumped and subsidised imports have caused material injury to the applicant producing like goods.

Customs and Border Protection has undertaken a preliminary calculation of a USP and NIP for HSS.

As discussed in section 6.5 above, it seems that the applicant claims that dumping and subsidisation have caused material injury to the Australian industry from FY2006. The USP has been calculated using the constructed method – the applicant's cost to make and sell in FY2011 with no profit margin.

Customs and Border Protection considers that applying a zero profit margin, while not necessarily a reasonable measure of profit for the Australian industry, is considered to be a conservative calculation for the purposes of the USP.

To derive the NIP, an importer's selling, general and administration expenses of 10%, and post exportation charges, as per REP153, have been deducted from the USP.

The analysis found that estimated dumped and subsidised export prices (based on those calculated in Section 5 above) were still all lower than the NIP. This finding supports the claim that dumping and subsidisation has caused injury to the Australian industry.

The analysis is in **Confidential Appendix G**.

6.12 Conclusion on material injury caused by dumped imports

It appears that dumping and subsidies have caused injury to the applicant in the form of lost sales volume, lost market share, price depression, price suppression and lost profit and profitability.

Cumulatively, it appears that dumped and subsidised imports have therefore caused the material degradation of the applicant's financial performance. Considering that the applicant represents the majority of the Australian industry, it is reasonable to conclude that the Australian industry, as a whole, has experienced material injury caused by dumped and subsidised imports.

Customs and Border Protection notes that the applicant presented financial data for a period of six financial years. However, Customs and Border Protection did not, for the purposes of assessing whether dumping and subsidisation has caused material injury in this report, treat any of the financial years as a 'base period' against which the Australian industry's economic performance in the most recent financial year should be compared.

Rather, Customs and Border Protection is satisfied that the application provides reasonable grounds to consider that dumping and subsidisation of HSS has caused material injury, taking into account an analysis of the financial year ending June 2011 in particular, and taking into account the context of the Australian manufacturers' economic performance over prior years.

Customs and Border Protection considers that in an investigation, it will be sufficient to examine the economic condition of the industry for a shorter period, namely the four financial years ending June 2011, to assess whether dumping has caused material injury.

Therefore, Customs and Border Protection is satisfied that there appear to be reasonable grounds to support the claim that HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand at dumped and subsidised prices have caused material injury to the Australian industry.

7 CONCLUSION

Customs and Border Protection has examined the application and is satisfied that:

- the application complies with subsection 269TB(4); and
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of dumping duty and countervailing duty notices in respect of the goods the subject of the application exported from China, and dumping duty notice in respect of the goods subject of the application exported from Malaysia, Korean, Taiwan and Thailand.

For the purposes of the investigation:

- the investigation period to determine whether dumping and/or subsidisation has occurred will be from 1 July 2010 to 30 June 2011; and
- Customs and Border Protection will examine the Australian market and the economic condition of the industry from 1 July 2007 to 30 June 2011 for the purposes of injury analysis.

Accordingly, the delegate of the CEO has not rejected the application for the publication of a dumping duty and countervailing duty notice under subsection 269TB(1).

LIST OF APPENDICES AND ATTACHMENTS

Appendix A	Notice of initiation
Confidential Appendix B	Australian market size and injury analysis
Confidential Appendix C	Revised dumping margin calculations
Appendix D	Consideration of CBSA CSWP findings
Appendix E	Consideration of alleged subsidy programs
Confidential Appendix F	Material injury analysis
Confidential Appendix G	NIP estimates and comparison to export prices

APPENDIX A – NOTICE OF INITIATION***Customs Act 1901 – Part XVB*****Certain Hollow Structural Sections**

***exported from the People's Republic of China, the Republic of Korea,
Malaysia, Taiwan and the Kingdom of Thailand***

Initiation of an investigation into alleged dumping and subsidisation**Public notice under section 269TC**

The Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) has initiated an investigation, following an application lodged by OneSteel Australian Tube Mills Pty Ltd, a manufacturer of hollow structural sections (HSS) in Australia. The application requests the publication of a dumping duty notice in respect of certain HSS exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia, Taiwan and the Kingdom of Thailand (Thailand), and the publication of a countervailing duty notice in respect of certain HSS exported to Australia from China.

The goods the subject of the application are certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

The goods are classified to tariff subheadings 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37), 7306.61.00 (statistical codes 21, 22 and 23) and 7306.69.00 (statistical codes 26, 27 and 28) in Schedule 3 of the *Customs Tariff Act 1995*.

The application alleges that the goods have been exported to Australia at prices less than their normal value and that, in the case of China, countervailable subsidies have been received in respect of the goods. The application claims that the dumped and subsidised exports have caused material injury to the Australian

industry through lost sales volume, lost market share, price undercutting, price suppression, price depression, reduced profits and profitability, reduced return on investment, reduced attractiveness to reinvest, reduced employment, reduced plant utilisation rates and reduced forward orders, cash flows and inventory levels.

The CEO specifies that goods exported to Australia during the period 1 July 2010 to 30 June 2011 will be examined to determine whether dumping and subsidisation has occurred. The Australian market will be examined from 1 July 2007 for injury analysis. The date of initiation of this investigation is the date of publication of this notice.

Interested parties, as defined by subsection 269T(1) of the *Customs Act 1901* (the Act), are invited to lodge submissions concerning the publication of the dumping and countervailing duty notices sought in the application, no later than the close of business on 31 October 2011, addressed to:

Director Operations 3
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Or by email: tmops3@customs.gov.au

Australian Customs Dumping Notice (ACDN) No. 2011/43, containing important procedural details, and the consideration report are available at www.customs.gov.au. Both documents should be read in conjunction with this notice.

The ACDN and the consideration report are also available on the public record. Documents included in the public record are available at <http://adpr.customs.gov.au/Customs/>. Alternatively, the public record may be examined at the above office address during business hours by contacting International Trade Remedies Branch on (02) 6275 6828.

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6275 6173, fax number (02) 6275 6990 or email tmops3@customs.gov.au.

Justin Wickes
A/g National Manager
International Trade Remedies Branch

19 September 2011

APPENDIX D - CONSIDERATION OF CANADIAN BORDER SERVICES AGENCY (CBSA) FINDINGS

CARBON STEEL WELDED PIPE FROM CHINA

SECTION 20 INQUIRY

Within Section 5.3.2 of this report, the 2008 findings of the CBSA in relation to carbon steel welded pipe from China are discussed by Customs and Border Protection, and are considered to provide evidence to support OneSteel ATM's submission that a particular market situation exists in the Chinese HSS market.

Within its application, OneSteel ATM summarised the CBSA's reasons (at Section A-1.5 of the application) for making this determination as follows.

- *The Chinese economy is recognised as an "economy in transition" by Canadian authorities. CBSA identified that the Government of China ("GOC") recognises the iron and steel industry as a "pillar industry" whereby it (the GOC) maintains relatively strong control over the principal companies, including maintaining a minimum 50% GOC equity in the principal enterprises in the industry group, via its five year and annual plans and substantial ownership of productive assets in the industry;*
- *The level of Communist Party of China ("CPC") involvement at the decision-making levels of state-owned enterprises ("SOEs") in the steel industry;*
- *The role the GOC plays in the economy through five-year annual plans and its substantial ownership of productive assets, both at the State and provincial levels;*
- *The implementation of the "National Steel Policy" ("NSP") which outlines the GOC's objectives and future plans for the domestic iron and steel industry which has not occurred as a consequence of market conditions but as a result of GOC direction and includes (but is not limited to):*
 - *Rationalisation of steel industry players through mergers and acquisitions under the supervision of the National Development and Reform Commission ("NDRC");*
 - *Consolidation of steel production under the supervision of NDRC to achieve goal of top 10 producers accounting for more than 50% of production by 2010; and*
 - *Direction to manufacture increased volumes of higher value production by 2010;*
- *The issuance of "policies, circulars, guidelines, laws and comments" by GOC which the CBSA determined were used to control the steel industry, including the welded pipe sector;*
- *Reviews by CBSA of welded tube and HRC prices in China highlighting welded tube pricing below the cost of the raw material input, HRC. Additionally, CBSA evidenced Chinese welded pipe*

being sold on export markets at or below the cost of market-determined pricing for HRC;

- CBSA had previously determined that the flat rolled steel sector in China – which includes both HRC and narrow strip – as the subject of Section 20 and that prices for this sector were not determined on a competitive basis. On this basis, CBSA considered it reasonable to assume that hot rolled steel represents the major cost of welded pipe “that this domestic price distortion in that sector will be transferred through to the welded pipe sector.”
- The use of the VAT system to further manage the Chinese steel industry through the removal of VAT on exports, thereby increasing supply for local consumption and forcing down domestic prices. The removal of the VAT (and the subsequent imposition of an export tax in successive stages) firstly on steel billet and slab, followed by narrow strip and HRC, and then welded pipe impacted the export intentions of steel producers whose aim it was to maximise VAT rebates. As the VAT was removed and the export tax introduced, producers moved to further value-adding of the steel (i.e. billet and slab, followed by HRC and strip, then welded pipe), delivering the GOC’s intended outcome of further value-adding in China. The process was not market-driven – rather, GOC orchestrated;
- Evidencing NDRC’s “Guiding Catalogue for Industry Restructuring” (“Catalogue”) which provided structural adjustment guidance for investment directions, the administration of investment projects, and to enforce public policy decisions on finance, taxation, etc. Three key categories were identified, namely:
 - Catalogue of encouraged Investment Industries;
 - Catalogue of Restricted Investment Industries; and
 - Catalogue of Eliminated Investment Industries.

Of note was the fact that Encouraged Investment Industries included “modern hot rolled broad-band (wide strip) steel rolling, the production of oil well pipe for petroleum exploration, high pressure boiler pipe for power stations, and steel pipe used in the long distance transportation of oil and gas. The Restricted Investment Industries included hot rolled steel sheet projects of below 800mm (which is referred to as narrow strip). Under Eliminated Investment Industries are hot rolled narrow strip mills”. The GOC – not the market – was found to be guiding investment decisions in the Chinese steel industry.

In considering these findings, Customs and Border Protection notes that Canada’s anti-dumping legislation includes provisions relating to exports from countries with governments that may monopolise export trade and substantially determine domestic prices in the industry sector under review. In alleging that dumping has occurred in relation to goods exported to Canada, the Canadian industry producing like goods can allege that the conditions set out in Section 20 of SIMA exist, which will be investigated by the CBSA if these allegations are reasonably supported.

In the case of a prescribed country such as China, a finding that Section 20 conditions exists in relation to a particular industry requires that domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

Customs and Border Protection notes that, unlike Canada, Australia treats China as a market economy and establishes normal values for exports from China in the same way it would for any other WTO member.

While the systems differ, it is considered that the substance of the CBSA findings are relevant to Customs and Border Protection's consideration of whether the situation in the market of the country of export is such that prices in that market are not suitable for use in determining normal values. Under Australia's anti-dumping laws, such findings would be relevant to determining normal values for any other exporting WTO member.

APPENDIX E - CONSIDERATION OF ALLEGED COUNTERAVAILABLE SUBSIDY PROGRAMS**Aluminium extrusions Programs (REP148)**

Note: Program numbers referred to below relate to REP148 numbering and may not reflect Program numbering in relation to an investigation into HSS exported from China.

Programs investigated by Customs and Border Protection within its investigation into aluminium extrusions from China to be investigated in relation to HSS exported to Australia from China:

- 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 3 - Provincial Scientific Development Plan Fund;
- Program 4 - Export Brand Development Fund;
- 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 9 - Training Program for Rural Surplus Labour Force Transfer Employment;
- 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 16 - Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area);
- Program 17 - Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai;
- Program 18 - Preferential Tax Policies in the Western Regions;
- Program 21 - Tariff and VAT Exemptions on Imported Materials and Equipments;
- Program 26 - Innovative Experimental Enterprise Grant;
- Program 29 - Special Support Fund for Non State-Owned Enterprises;
- Program 32 - Venture Investment Fund of Hi-Tech Industry, and
- Program 35 - Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.

Programs investigated within the aluminium extrusions investigation but considered to not warrant investigation in relation to HSS on the basis that they are no longer in existence:

- Program 11 - Local Income Tax Exemption and/or Reduction;
- Program 12 - Preferential Tax Policies for Foreign-Invested Export Enterprises;
- Program 14 - Reduction in Land Use Fees;
- Program 20 - Exemption/Reduction of Special Land Tax and Land Use Fees;
- Program 22 - Income Tax Refund Where Profits Re-Invested;
- Program 23 - The State Key Technology Renovation Projects;
- Program 27 - Inward Remittance of Export Earnings;
- Program 28 - Interest Subsidies for Loans Secured by Tax Refund Accounts;
- Program 39 - Preferential Tax Policies for the Research and Development of Foreign-invested Enterprises;
- Program 40 - Preferential Tax Policies for Foreign Invested Enterprises and Foreign Enterprises which have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced;
- Program 41 - Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purposes, and
- Program 42 - VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps.

Programs investigated within the aluminium extrusions investigation but considered to not warrant investigation in relation to HSS on the basis that they duplicates of other Programs considered separately:

- Program 13 - Exemption of Tariff and Import VAT for Imported Technologies and Equipment (found to be a duplicate of Program 21);
- Program 19 - Local Income Tax Exemption and/or Reduction for Special Economic Zones and Designated Areas (found to be a duplicate of Program 11);
- Program 25 - Export Assistance Grant (found to be a duplicate of Program 5);
- Program 38 - Preferential Tax Policies for Enterprises with Foreign Investment which are Technology-intensive and Knowledge-intensive (found to be a duplicate of Program 16), and
- Program 43 - Relief from Duties and Taxes on Imported Materials and Other Manufacturing Inputs (found to be a duplicate of Program 21).

Program investigated within the aluminium extrusions investigation but considered to not be granted by the GOC:

- Program 34 - Guangdong-Hong Kong Technology Cooperation Funding Scheme.

Program for which insufficient evidence was found to establish that the Program was a countervailable subsidy:⁴¹

- Program 24 - Reimbursement of Antidumping and/or Countervailing Legal Expenses by the Local Government; and
- Program 36 – Debt-to-equity Programs.

Programs considered that are likely not applicable to manufacturers of HSS:

- Program 30 - Innovation Fund for Medium and Small Business;
- Program 31 - Special Funds for Foreign Economic and Technical Cooperation;
- Program 33 - National Innovation Fund for Technology Based Firms, and
- Program 37 - Interest Free Loans to High and New Technology Products.

CBSA CSWP Programs

Note: Program numbers referred to below relate to the numbering within Appendix 2 of the CBSA's CSWP final Statement of Reasons, and may not reflect Program numbering in relation to an investigation into HSS exported from China.

Programs investigated by CBSA within its investigation into CSWP from China to be investigated in relation to HSS exported to Australia from China:

- Program 4: Grant for key enterprises in equipment manufacturing industry of Zhongshan; and
- Program 9: Hot rolled steel provided by government at less than fair market value.

Programs investigated by CBSA and not within the aluminium extrusions investigation that are considered to have ceased to exist on 1 January 2008:

- Program 26: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purposes.

Programs considered to not have been supported by sufficient evidence in the CBSA statement of reasons to demonstrate there appear to be reasonable grounds that they meet the criteria of s.269T and s.269TACC:

- Program 17: Goods and Services Provided by Government at Less than Fair Market Value to Enterprises Located in Special Economic Zones and other Designated Areas, and
- Program 21: Preferential Loans Provided under the Northeast Revitalisation Program.

⁴¹ Customs and Border Protection notes that this program was investigated and countervailed by the CBSA however these findings were made in the absence of a cooperative exported receiving the program, and minimal evidence from the GOC.

Programs considered to be equivalent to those considered within the aluminium extrusions investigation:

- Program 1 - Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones (equivalent aluminium extrusions Program 1 - Preferential Tax Policies for Enterprises with Foreign Investment Established in Coastal Economic Open Areas and Economic and Technological Development Zones);
- Program 2 - 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 (equivalent aluminium extrusions 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 3 - Local Income Tax Exemption and/or Reduction (equivalent aluminium extrusions Program 11 - Local Income Tax Exemption and/or Reduction);
- Program 5 - Export Assistance Grant (equivalent aluminium extrusions Program 25 - Export Assistance Grant);
- Program 6 - Research & Development Assistance Grant of Wuxing District (equivalent aluminium extrusions Program 7 - Research & Development Assistance Grant);
- Program 7 - Innovative Experimental Enterprise Grant (equivalent aluminium extrusions Program 26 - Innovative Experimental Enterprise Grant);
- Program 8 - Superstar Enterprise Grant (equivalent aluminium extrusions Program 6 - Superstar Enterprise Grant);
- Program 10 - Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area) (equivalent aluminium extrusions Program 16 - Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area));
- Program 11 - Preferential Tax Policies for Enterprises with Foreign Investment Established in the Pudong area of Shanghai (equivalent aluminium extrusions Program 17 - Preferential tax policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai);
- Program 12 - Preferential Tax Policies in the Western Region (equivalent aluminium extrusions Program 18 - Preferential Tax Policies in the Western Regions).
- Program 13 - Corporate Income Tax Exemption and/ or Reduction in SEZs and other Designated Areas (equivalent aluminium extrusions Program 19 - Local Income Tax Exemption and/or Reduction for Special Economic Zones and Designated Areas);
- Program 14 - Exemption/ Reduction of Special Land Tax and Land Use Fees in SEZs and other designated areas (equivalent aluminium extrusions

Program 20 - Exemption/Reduction of Special Land Tax and Land Use Fees);

- Program 15 - Tariff and Value-added Tax (VAT) Exemptions on Imported Materials (equivalent Program 21 - Tariff and VAT Exemptions on Imported Materials and Equipments);
- Program 16 - Income Tax Refund where Profits Re-invested (equivalent aluminium extrusions Program 22 - Income Tax Refund Where Profits Re-Invested);
- Program 18 - The State Key Technology Renovation Projects (equivalent aluminium extrusions Program 23 - The State Key Technology Renovation Projects);
- Program 19 - Reimbursement of Anti-dumping and or Countervailing Legal Expenses by the Local Governments (equivalent aluminium extrusions Program 24 - Reimbursement of Antidumping and/or Countervailing Legal Expenses by the Local Government);
- Program 20 - Debt-to-Equity Swaps (equivalent aluminium extrusions Program 36 - Debt-to-Equity Programs);
- Program 22 - Preferential Tax Policies for Foreign invested Export Enterprises (equivalent aluminium extrusions Program 12 - Preferential Tax Policies for Foreign-Invested Export Enterprises);
- Program 23 - Preferential Tax Policies for Enterprises with Foreign Investment which are Technology Intensive and Knowledge Intensive (equivalent aluminium extrusions Program 38 - Preferential Tax Policies for Enterprises with Foreign Investment which are Technology-intensive and Knowledge-intensive);
- Program 24 - Preferential Tax Policies for Research and Development by Foreign Invested Enterprises (equivalent aluminium extrusions Program 39 - Preferential Tax Policies for the Research and Development of Foreign-invested Enterprises);
- Program 25 - Preferential tax policies for Foreign Invested Enterprises and Foreign Enterprises which have Establishments or Places in China and are engaged in Production or Business Operations Purchasing Domestically Produced Equipments (equivalent aluminium extrusions Program 40 - Preferential Tax Policies for Foreign Invested Enterprises and Foreign Enterprises which have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced);
- Program 27 - Income Tax Refund for Re-investment of Foreign Invested Enterprise Profits (equivalent aluminium extrusions Program 22 - Income Tax Refund Where Profits are Re-Invested);
- Program 28 - VAT and Income Tax Exemption/ Reduction for Enterprises Adopting Debt-to-Equity Swaps (equivalent aluminium extrusions Program 42 - VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps)

- Program 29 - Exemption of Tariff and Import VAT for Imported Technologies and Equipment (equivalent aluminium extrusions Program 13 - Exemption of Tariff and Import VAT for Imported Technologies and Equipment);
- Program 30 - Relief from Duties and Taxes on Imported Materials and other Manufacturing Inputs (equivalent aluminium extrusions Program 43 - Relief from Duties and Taxes on Imported Materials and Other Manufacturing Inputs), and
- Program 31 - Reduction in Land Use Fees (equivalent aluminium extrusions Program 14 - Reduction in Land Use Fees).