



**INVESTIGATION 254**

**ALLEGED DUMPING OF CERTAIN  
HOLLOW STRUCTURAL SECTIONS  
EXPORTED FROM THE KINGDOM OF THAILAND**

**VISIT REPORT - IMPORTER**

**COMMERCIAL METALS PTY LTD**

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED  
THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY  
NOT REFLECT THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

**20 November 2014**

**CONTENTS**

**CONTENTS .....2**

**ABBREVIATIONS .....3**

**1 BACKGROUND AND PURPOSE .....4**

1.1 BACKGROUND ..... 4

1.2 PURPOSE OF VISIT..... 4

1.3 MEETING DETAILS..... 5

1.4 INVESTIGATION PROCESS AND TIMEFRAMES ..... 5

1.5 VISIT REPORT ..... 6

**2 THE GOODS .....7**

2.1 DESCRIPTION ..... 7

2.2 TARIFF CLASSIFICATION ..... 7

**3 COMPANY DETAILS.....9**

3.1 COMPANY BACKGROUND ..... 9

3.2 ACCOUNTING ..... 10

3.3 RELATIONSHIP WITH SUPPLIERS ..... 10

**4 IMPORTS .....12**

4.1 VERIFICATION OF IMPORTS ..... 12

**5 AUSTRALIAN MARKET .....17**

5.1 GENERAL ..... 17

5.2 SALES AND DISTRIBUTION OF IMPORTED GOODS ..... 17

5.3 SALES VERIFICATION..... 19

**6 WHO IS THE IMPORTER AND EXPORTER .....22**

6.1 WHO IS THE IMPORTER? ..... 22

6.2 WHO IS THE EXPORTER? ..... 22

**7 ARMS LENGTH .....24**

**8 GENERAL COMMENTS .....25**

**9 RECOMMENDATIONS .....27**

**10 APPENDICES AND ATTACHMENTS .....28**

PUBLIC RECORD

**ABBREVIATIONS**

\$	Australian dollars
ACBPS	Australian Customs and Border Protection Service
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ATM	AusTube Mills Pty. Ltd.
CFR	Cost and freight
CMC	Commercial Metals Pty Ltd
the Commission	The Anti-Dumping Commission
FOB	Free On Board
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
HSS	Hollow structural sections
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry
█	█
SEF	Statement of Essential Facts
Thailand	Kingdom of Thailand

## **1 BACKGROUND AND PURPOSE**

### **1.1 Background**

On 10 June 2014, Austube Mills Pty. Ltd. (ATM) lodged an application requesting that the Minister for Industry<sup>1</sup> (the Minister) publish a dumping duty notice in respect to hollow structural sections (HSS) exported to Australia from the Kingdom of Thailand (Thailand).

ATM alleges that the Australian industry has suffered material injury caused by HSS exported to Australia from Thailand at dumped prices.

Public notification of initiation of the investigation was made on 21 July 2014 via Anti-Dumping Notice (ADN) 2014/59. The investigation period is set as 1 July 2013 to 30 June 2014.

Following initiation of the investigation, a search of the Australian Customs and Border Protection Service's (ACBPS) import database indicated that Commercial Metals Pty Ltd (CMC) had imported HSS from Thailand during the investigation period.

The Anti-Dumping Commission (the Commission) wrote to CMC, advising the company of the initiation of the investigation, requesting co-operation with the investigation and provided the company with a copy of the Importer Questionnaire and associated spread sheets to complete.

CMC completed the Importer Questionnaire, providing:

- Part A - details regarding the company, overseas supplier information and identification of its Australian customers;
- Part B – details of the cost to import and sell plus profit of eleven selected importations and details of forward orders; and
- Part C – a detailed sales listing to Australian customers during the investigation period.

### **1.2 Purpose of visit**

The purpose of the visit was to:

- provide CMC with an understanding of the key issues, dates and processes that relate to the Commission's investigation into certain HSS exported from Thailand;

---

<sup>1</sup> On 16 September 2013, the Minister for Industry delegated responsibility for anti-dumping matters to the Parliamentary Secretary to the Minister for Industry.

## PUBLIC RECORD

- confirm that CMC is an importer of HSS from Thailand as attributed to it within the import database and obtain information to assist in establishing the identity of exporters of HSS from Thailand;
- verify information on imports of HSS from Thailand in order to assist in the determination of export prices;
- establish whether the purchases of HSS from Thailand were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers, and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for HSS; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

### 1.3 Meeting details

Company	Commercial Metals Pty Ltd
Address	Level 6, 697 Bourke Road, Camberwell VIC
Date of visit	09 September 2014

The following were present at various stages of the meetings.

CMC	██████████ – National Manager – Long Products ██████████ – General Manager ██████████ – Product manager – Tubular ██████████ – Business Service Representative
the Commission	Bora Akdeniz, A/g Assistant Director, Operations 4 Melanie Brandis, Assistant Director, Operations 4 Rebecca Oliver, A/g Assistant Director, Operations 4

### 1.4 Investigation process and timeframes

The visit team advised the company of the investigation process and timeframes as follows.

- The investigation period is 1 July 2013 to 30 June 2014.
- The injury analysis period is from 1 June 2011 for the purpose of analysing the condition of the Australian industry.
- The due date for Statement of Essential Facts (SEF) for the investigation has been extended and is due to be placed on the public record by 6 February 2015, though this date may be further extended by the Parliamentary

## PUBLIC RECORD

Secretary to the Minister for Industry (Parliamentary Secretary) as allowed under s.269ZHI of *the Customs Act 1901* (the Act).<sup>2</sup> If this occurs, it will be notified on the investigation case's public record at <http://www.adcommission.gov.au/cases/EPR254.asp>.

The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Parliamentary Secretary, and will invite interested parties to respond, within 20 days, to the issues raised therein.

Interested parties are encouraged to make submissions within 20 days of the SEF's release.

- The final report and recommendations to the Parliamentary Secretary are due to be submitted by 23 March 2015, though it is possible that this timeline will be extended.
- The Commission is able to impose a preliminary affirmative determination (PAD) and provisional measures on exporters of the goods if it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice. A PAD is able to be made at any time after Day 60 of the investigation, which was 19 September 2014 in this case. The Commission has not made a PAD at this time.

### 1.5 Visit report

The visit team explained to CMC that a confidential report would be prepared and provided to the company to review for factual accuracy and to identify those parts of the report it considers to be confidential. Any confidential material would be handled appropriately by the Commission and not released to any third parties.

A non-confidential version of the report, prepared in consultation with CMC, will be published on the public record.

---

<sup>2</sup> All references to sections, sub-sections or paragraphs in this report relate to the Act unless specifically stated otherwise.

## 2 THE GOODS

### 2.1 Description

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

*Certain electric resistance welded pipe and tube made of steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes, whether or not including alloys. 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 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 950.0 mm. CHS with other than plain ends (such as threaded, swaged and shouldered) are also included within the goods coverage.*

The applicant submits that the following categories of HSS are excluded from the application:

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

### 2.2 Tariff classification

The application stated that the goods are classified under the following tariff classifications and statistical codes:

- *7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);*
- *7306.50.00 (statistical code 45);*
- *7306.61.00 (statistical codes 21, 22, 25 and 90); and*
- *7306.69.00 (statistical code 10).*

Based on information provided in the application, Australian Customs and Border Protection Service (ACBPS) Tariff Policy and Implementation Branch confirmed that the goods are correctly classified to tariff subheadings:

## PUBLIC RECORD

- *7306.30.00: circular hollow sections;*
- *7306.61.00: rectangular or square hollow sections;*
- *7306.69.00: other non-circular cross-sections; and*
- *7306.50.00: other circular cross-sections of other alloys of steel,*

in Schedule 3 to the Customs Tariff Act 1995.

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

The Commission notes that there are numerous Tariff Concession Orders applicable to the relevant tariff subheadings.



### 3 COMPANY DETAILS

#### 3.1 Company background

CMC was established in 1980 as an importer and marketer of long and flat steel products for the Australian market. CMC is a subsidiary of US based Commercial Metals Company Ltd, which is publicly listed on the New York stock exchange. The Commercial Metals Group operates offices in North America, Europe, Asia and Australasia. CMC operates three divisions across Australia: steel trading, steel distribution and raw materials.

CMC explained that as of September 2013, it changed its name from CMC Australia Pty Ltd to Commercial Metals Pty Ltd.

##### 3.1.1 Commercial operations

CMC is one of the largest marketers of imported steel in Australia. It has sales offices in Melbourne, Sydney, Perth and Brisbane and primarily sells to the [REDACTED]. [CMC's customer details]

CMC utilises warehouse facilities at several Australian ports for distribution purposes for just in time delivery and logistics management.

CMC explained that it comes under the marketing and distribution division of Commercial Metals Company Ltd in USA, and has two divisions:

- CMC Steel Trading; and
- CMC Cometals (supplier of industrial products).

Additionally, CMC's related company, CMC Coil Steels Pty Ltd (CMC Coil Steels), formerly known as Coil Steels Group Pty Ltd, is a major distributor and processor of steel sheet, coil and long products.

CMC advised that it acquired a [REDACTED] ownership in [REDACTED] [confidential – ownership of related company details].

CMC competes in the Australian HSS market on price, quality and reliability of the products, financing alternatives (i.e. credit terms) and additional services including just in time delivery options.

CMC states that it provides distributors and resellers in the Australian HSS market an alternative supply of steel products. In terms of placing orders, CMC [REDACTED] for the overseas mills. [Confidential - CMC's internal business policies]

##### 3.1.2 Product range

Under the CMC Steel Trading division, CMC imports and sells a range of steel products. These products are categorised into either 'flat' or 'long' products.

## PUBLIC RECORD

'Flat' products include hot-rolled coil, cold-rolled coil and galvanised coil.

'Long' products include:

- tubular goods (HSS and other non-HSS pipe and tube e.g. line pipe, seamless pipe and pipe and tube that falls outside the description of the goods);
- reinforcing steel (e.g. reinforcing bar and wire rods);
- structural and merchant bars (e.g. H beams and angles);
- strand and wire products; and
- special bar (carbon bar and alloy bar).

CMC advised that it imports a wide range of HSS including rectangular, square and circular products in a variety of grades, sizes, gauges and finishes (including hot dipped galvanised (HDG), pre-galvanised, painted, black and no outside protective coating (also black HSS)). CMC advised that its HDG HSS is circular (CHS) and is a non-structural grade.

CMC advised that its RHS range can meet the Australian Standard AS1163 (structural HSS), but that it also imports CHS and RHS products to Australian Standard AS1074 (non-structural HSS).

CMC estimated that its sales of pipe and tube business (including HSS that are not the goods) accounted for [REDACTED] cent of the company revenue. [Confidential - CMC's revenue structure]

### 3.2 Accounting

CMC explained that its financial year runs from 1 September to 31 August consistent with its headquarters based in the United States. On 1 November 2012, CMC installed a new [REDACTED] accounting system replacing its previous [REDACTED] system.

CMC advised that the steel trading division

[REDACTED]

[REDACTED]. [Confidential- CMC internal accounting policies]

### 3.3 Relationship with suppliers

CMC confirmed that it purchased HSS from the following suppliers during the investigation period:

- [REDACTED]

PUBLIC RECORD

- [REDACTED]
- [REDACTED]
- [REDACTED]

[Confidential – supplier details]

CMC advised that it has no ownership interest in, and no relationship other than an arms length commercial relationship with any of its suppliers.

CMC also stated that during the investigation period it received no discounts or rebates from its suppliers and that the invoiced price is the actual money price paid.

The verification team found no evidence of any discounts or rebates being provided to CMC by any of its suppliers during our verification with CMC.

## 4 IMPORTS

### 4.1 Verification of imports

Prior to the visit, CMC provided the Commission with information on eleven selected shipments in its cost to import and sell spreadsheet in its questionnaire Part B response (**confidential appendix 1**). As outlined in this section, the visit team verified the information in the cost to import and sell spreadsheet to source documents provided by CMC.

As specified below, source documents provided included the relevant bills of lading; various invoices for purchase, sales, and expenses; insurance policies; bank records and payment remittances; customs entry; and ordering documents (**confidential attachment 1, by shipment**).

Subsequent to the visit, CMC provided a revised import transaction spreadsheet, making revisions to details to some CMC calculations and shipment costs as detailed in this report (**confidential appendix 2**).

#### 4.1.1 CMC calculations

Under the heading 'CMC calculations' the cost to import and sell spreadsheet contained details of:

- invoice price in [redacted], the [redacted] and invoice price in [redacted] [Confidential pricing practices]
- bank fees and charges and [redacted] cost; and [Confidential - CMC internal business policies]
- shipment quantity.

#### Invoice price

The verification team observed that the invoice values were expressed in [redacted] and delivery terms were [redacted]. [Confidential – currency and delivery terms]

To verify the invoice price [redacted] [currency] CMC provided commercial invoices from "[redacted]" [supplier]. Some of these invoices were for multiple orders. The visit team verified that the invoice amount stated in the cost to import and sell spreadsheet, correlated with the total invoice amount or for the relevant part of the invoice, based on itemisation shown on the invoice. The commercial invoices also verified other particulars included on the cost to import and sell spreadsheet, such as the invoice number, invoice date and shipment quantity.

CMC's records provided only selected pages of the invoice. For shipments 3, 6 and 7 this created difficulties in verifying the invoice amount to the order number where the order was for multiple orders. However, subsequent to the visit, the visit team were able to satisfactorily reconcile the revised cost to import and sell spreadsheet

provided by CMC (confidential appendix 2) based on information provided from additional invoices CMC provided as per the visit teams request (**confidential attachment 2**).

The cost to import and sell spreadsheet converted the invoice price to [REDACTED]. CMC provided the visit team with a CMC daily trading report and correspondence regarding exchange rates, verifying the exchange rate used to convert the invoice price to [REDACTED].

**Fees and charges**

In relation to fees and charges, CMC had included [REDACTED] in its cost to import and sell spreadsheet which could be verified to [REDACTED] provided. For the [REDACTED] cost, CMC provided [REDACTED]. The visit team note that these charges were a very small proportion of the costs overall. [Confidential details about fees and charges incurred]

**Shipment quantity**

With respect to shipment quantity, the volumes specified in the cost to import and sell spreadsheet were verified to the bill of lading for each shipment and to the commercial invoices between Saha Thai and CMC.

**4.1.2 Shipment costs**

Under the heading of ‘Shipment Costs’ in the import transaction spread sheet, CMC entered:

- bill of lading numbers;

[REDACTED]  
[REDACTED] [Confidential - details of shipment costs] [REDACTED]

Bills of lading were provided for each selected shipment which confirmed the bill of lading details on the spreadsheet. Overseas freight stated in the cost to import and sell spreadsheet was verified to the relevant invoices and payment records to freight forwarders.

CMC provided documents verifying the marine insurance rate over the investigation period. The visit team confirmed the rates used were accurate. CMC then calculated the marine insurance per shipment at the insurance rate for the invoice value. The visit team confirmed the calculation had been conducted correctly and noted one error where the total invoice value used was incorrect. This error was corrected on the revised import transaction form (confidential appendix 2) Otherwise, no discrepancies were observed.

Total weight across eleven shipments (MT)	[REDACTED]
Weighted average	[REDACTED]
Weighted per tonne	[REDACTED]

Weighted [redacted] per [redacted] tonne	[redacted]
Weighted per tonne [redacted]	[redacted]
Weighted average per tonne [redacted]	[redacted]
Weighted [redacted] per [redacted] tonne	[redacted]
Weighted [redacted] per [redacted] tonne	[redacted]
Weighted [redacted] per [redacted] tonne	[redacted]
Weighted per tonne [redacted]	[redacted]
Weighted [redacted] per [redacted] tonne	[redacted]

**Table 1: Weighted average costs for eleven selected imports**

[Confidential CMC' weighted average importation costs]

**4.1.3 Australian Importation Costs**

Under the heading of 'Australian Importation Costs' in the revised cost to import and sell spreadsheet CMC provided amounts for:

[redacted] [Confidential CMC internal business policies and process to construct costs]

These costs were verified to documents provided in confidential attachment 2 as detailed below.

[redacted]



[Confidential – CMC

internal business policies and process to construct costs]

#### 4.1.4 Selling, general and admin costs

CMC included in its cost to import and sell spreadsheet selling, general and administrative (SG&A) costs of [redacted] of its selling revenue. CMC explained that this was based on its actual SG&A costs from the 2013 financial year for its steel division. CMC provided the visit team its audited profit and loss statement (P&L) for the 2013 financial year (**confidential attachment 3**). The verification visit team also requested to see CMC's P&L for the 2014 financial year for comparison. CMC stated that its 2014 financial statements have not been audited yet but provided an unaudited P&L for 2014 (**confidential attachment 4**).

To support its SG&A figure, CMC provided a report showing the calculation of SG&A for the 2013 financial year. The report showed a breakdown of cost items included in SG&A costs for CMC international trading division. This calculation is also available in confidential attachment 3. For the 2013 financial year, the team observed that CMC's SG&A expenses amounted to \$ [redacted] and these included



[redacted] in confidential attachment 3.

[Confidential CMC internal business policies]

The team was able to reconcile the total revenue and SG&A costs of CMC as a whole to the audited financial statement of 2013 (with a very minor variation in totals).

The verification team noted that, CMC's profit and loss statements included [redacted]. The



[Redacted] on the profit and loss statements. When queried, CMC explained that [Redacted] CMC stated that for the Commercial Metals Group [Redacted] CMC argued [Redacted] the cost of importing and selling.

[Confidential CMC internal business policies]

The verification team however considers that the [Redacted] real cost of doing business [Redacted]. CMC's steel trading division [Redacted] Similarly, being part of [Redacted] costs of CMC.

[Confidential CMC internal business policies]

The verification team then re-calculated CMC's [Redacted] for 2013 and 2014 and came up with the figures below:

	2013	2014
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
Total Revenue (AU\$)	[Redacted]	[Redacted]
Total SG&A / revenue	[Redacted]	[Redacted]

**Table 2: SG&A costs and calculated percentages for 2013 and 2014 financial years**  
 [Confidential CMC internal business policies]



## 5 AUSTRALIAN MARKET

### 5.1 General

CMC explained its perception of the Australian HSS market in general. CMC argued that one of the biggest threats in the HSS market is the growing trend of importing fabricated and semi-fabricated products. CMC stated that it observed more and more fabricators dismantling their manufacturing facilities in Australia and moving to Asia to gain access to cheaper materials and labour. CMC claimed that anti-dumping duties on imported HSS have in fact increased the cost of materials for local fabricators and local fabricators as a result have been losing their business to imported fabricated HSS products. CMC also highlighted that the imported finished products need only to comply with building codes rather than more stringent Australian material standards for HSS. CMC alleged that the current situation has become unsustainable for a number of players of HSS market.

CMC observed that ATM prices are comparatively higher to imports, but that ATM is able to attract a local 'premium', primarily due to their relatively short lead times compared to imported HSS. CMC also advised that its customer base is largely different from ATM's. CMC commented that ATM only sells to its franchised large distributors and refuses to sell to smaller distributors and resellers. CMC claimed that its main customer base was smaller distributors and resellers who are not able to purchase directly from ATM due to their lower volume requirements. CMC noted that ATM's non customer base could purchase ATM's products through one of ATM's franchised distributors, but at a higher price.

The verification team queried about the price leader in the Australian HSS market. CMC explained that the HSS market is very competitive and in most segments the market was price driven. CMC stated that it obviously needed to be competitive in the market, however CMC explained that its real strength is in its value proposition to ATM's non franchised customer base. CMC stated that due to its warehousing facilities and its shared services like logistics, quality control, financial services working in the background, and due to being a part of a global business with exclusive supplying agreements with high quality mills, it had more capability to deliver better value for its customers in the market. CMC explained that, it is one of the largest players in the market and it had a vested interest in healthy functioning of Australian steel market in general.

### 5.2 Sales and distribution of imported goods

CMC advised that it receives orders from its domestic customer base and negotiates on a monthly basis with the overseas producer to supply those orders.

CMC explained that it based its decision on where to source HSS at any one time on [redacted] [selection criteria].

CMC advised that it does not have traditional 'price lists' of its products, but that its price lists are effectively the monthly offers it releases to the market.

PUBLIC RECORD

CMC advised that its usual ordering and sales process for the goods is as follows:

- [REDACTED]. Within the source document bundles provided by CMC for the 11 selected importations within the importer transaction form (confidential attachment 1), [REDACTED]
- CMC is contacted by its Australian customers [REDACTED].

[REDACTED]

[REDACTED] CMC's suppliers manufacture [REDACTED]

[REDACTED] CMC's Australian customer [REDACTED]

[REDACTED] [Confidential – details of ordering and sales process].

The verification team observed within the sales listing CMC provided with its importer questionnaire response that CMC's trading terms to its Australian customers are generally free-into-store (FIS), with some sales at free-on-truck (FOT).

It is observed that credit terms to CMC's Australian customers include:

[REDACTED]

### 5.3 Sales verification

#### 5.3.1 Accuracy – verification to source documents

CMC provided:

- source documents for 11 selected shipments detailed within its cost to import and sell spreadsheet, which included CMC's invoices to its Australian customers (within confidential appendix 2); and
- invoices and proof of payment (in the form of remittance advices and bank statement extracts) for sales of the goods imported in the selected 11 shipments by the Commission (confidential appendix 2).

The verification team matched the details on the source documents provided (value, quantity, invoice date, delivery terms and credit terms) to sales listing CMC provided in Part C of its importer questionnaire response (**confidential appendix 3**). The verification team also observed that the remittance advices matched the invoices for the sales of the products imported with the 11 selected shipments.

The team is therefore satisfied that invoice details recorded in CMC's sales listing are accurate, and that CMC's customers paid the invoiced amounts for these transactions.

#### 5.3.2 Completeness and relevance – verification to CMC's accounts

The verification team requested CMC provide the Commission with documents in order to conduct an upwards reconciliation of CMC's original (HSS-only) Part C sales listing submitted in response to the importer questionnaire.

CMC provided company-wide audited profit and loss statement for the FY2013 (confidential attachment 3) and unaudited profit and loss statement for FY2014, as well as month to date profit and loss statements for each month of the investigation period (confidential attachment 4).

As explained in section 3.2 of this report, it was observed that it was

[Redacted]

As a result, the verification team was

[Redacted]

[Confidential CMC internal business policies]

## PUBLIC RECORD

To verify the completeness of CMC's sales listing in its questionnaire response, the verification team requested a complete list of all sales of CMC's steel trading division for the investigation period. CMC provided the requested sales listing which included both goods that were covered by the investigation and goods that fell outside the investigation. CMC's complete sales listing for the investigation period is at **confidential appendix 4**.

The verification team compared the monthly sales figures on the complete sales listing to monthly revenue figures in CMC's profit and loss statements. The comparison showed variances between [redacted] per cent in dollar revenues. The comparison is attached as **confidential appendix 5**.  
[Confidential – variances]

The verification team enquired about the causes of variances. CMC explained that the main reason for having a variance between the monthly sales in the sales listing and the sales revenues in the profit and loss statement as its [redacted] CMC explained that the [redacted] it followed is a requirement under US accounting Sarbanes Oxley Act. CMC stated that revenue [redacted] CMC explained that it has sales terms based on the [redacted] CMC also commented that, in addition to the scenario mentioned above, there are occasions when the goods are returned by the customer and the payments are reversed, [redacted] and [redacted] when [redacted]. As a result, CMC stated that it would not be possible to match the total sales figures on the complete sales listing with the monthly sales revenue figures on the profit and loss statements. The verification team considered CMC's explanation reasonable.

[Confidential CMC internal business policies]

The team selected four months with largest variance figures between the total sales figures and sales revenues in profit and loss statements for verification. In order to verify the completeness of CMC's sales listing in its importer questionnaire response, the team compared sales of the goods in August 2013, September 2013, January 2014 and February 2014 to complete sales list line by line. The line by line comparison of sales entries in sales listing correlated with the complete sales listing of steel trading division of CMC. These line by line comparisons are in **confidential appendix 6**.

To perform a further completeness and relevance test, the verification team compared the volume of sales in CMC's sales listing with the volume of imports recorded in ACBPS' imports database. The team noted an acceptable variance between these reported volumes which is likely to be due to timing differences

between the import database and CMC's invoice date (which the sales listing was limited to).

The verification team is therefore satisfied that CMC's sales listing is a reasonably complete and relevant list of all of CMC's sales of HSS imported from Thailand over the investigation period.

### 5.3.1 Profitability of sales

The verification team calculated the total profit for 10 out of the 11 selected shipments (total selling price minus total cost to import and sell) in the cost to import and sell spreadsheet. The remaining selected shipment was purchased by CMC for stock and at the time of verification had not sold.

The calculations indicated that [redacted]. [profitability of sales] The range of profit for the selected transactions was calculated as between [redacted] per cent [confidential – profit achieved].

The verification team observed that the products in the [redacted] [redacted] [confidential details about profitability]

The team observed that overall, the shipments were profitable, with an average profit of [redacted] [confidential – profit achieved].

## 6 WHO IS THE IMPORTER AND EXPORTER

### 6.1 Who is the importer?

The documents provided by CMC were reviewed in respect of the selected shipments for the purpose of identifying the importer. It was noted that, for imports from [REDACTED], CMC:

- negotiates directly with the supplier;
- is named as the consignee on the bill of lading;
- is named as the buyer on supplier invoices;
- [REDACTED] [confidential – shipping details];
- [REDACTED] [confidential – insurance details];
- [REDACTED] of the goods after they are delivered to the Australian port [confidential – Customs clearance details];
- appears as the importer on the Customs declarations;
- retains ownership of the goods until they are delivered to its customers; and
- bears the risk of its customers defaulting on purchase agreements with CMC.

The Commission considers CMC was the beneficial owner of the goods at the time of importation, and is therefore the importer.

### 6.2 Who is the exporter?

The Commission will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.

It is common for traders and other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation, conducting price negotiations, arrange contacts with the producer, etc.

In such cases, the trader typically acts as an intermediary who, although one of the principals, is essentially a facilitator in the sale and shipment of the goods on behalf of the manufacturer. Typically the manufacturer as a principal who knowingly sent the goods for export to any destination will be the exporter.

## PUBLIC RECORD

Therefore, depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.

In relation to [REDACTED], upon review of the documents the verification team is satisfied that:

- the commercial invoices identify the supplier;
- the bills of lading identify the supplier as the shipper of the goods; and
- the supplier arranges and pays for the goods [REDACTED] terms of trade; [confidential - shipping arrangements] and
- CMC pays the relevant supplier.

Subject to further inquiries, the verification team is satisfied that, [REDACTED] can be considered exporter of HSS imported by CMC.

To the Commission's knowledge, this entity is the principle in [REDACTED], who manufactures the goods and gives up the goods for shipment directly to CMC.

## 7 ARMS LENGTH

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arms length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

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

The verification team reviewed the documentation for the selected shipments for and did not find any evidence, in respect of the purchase of HSS, that:

- there is any consideration payable for or in respect of the goods other than price;
- the price was influenced by a commercial or other relationship between CMC or an associate of CMC, and its supplier(s) or an associate of the supplier; and/or
- CMC or an associate of CMC was directly or indirectly reimbursed, compensated or otherwise received a benefit for or in respect of the whole or any part of the price.

As discussed in section 5.3.1 of this report, the verification team found that overall the selected shipments were profitable.

The verification team is satisfied that import transactions between CMC and its [REDACTED], are at arms length in terms of s. 269TAA.



## 8 GENERAL COMMENTS

During the visit, CMC raised a number of issues regarding the investigation and current state of HSS market in Australia.

CMC alleged that a significant portion of the market was not being served by ATM due to ATM's policy of only selling to its franchised distributors. CMC stressed that this policy forces the smaller distributors and resellers to purchase through ATM's distributors and pay a premium for 'distributors' profit. CMC claimed that it served the market neglected by ATM by selling direct to these smaller distributors and resellers so there was very little overlap between its market and ATM's market for HSS.

CMC discussed the current economic condition of the HSS market, and asserted that the HSS market has significantly contracted since the global financial crisis. CMC stated that in terms of HSS, 2011, 2012 and 2013 had been the worst years in the product group's recent records for both local and imported products. CMC explained that the demand from construction activity is at all-time lows and the purchasing managers index (PMI) and performance of construction index (PCI) were showing very weak figures during the investigation period. CMC claimed that Arrium's 2014 Annual Report (**Attachment 6**) contended ATM's business is 80% reliant on construction activity and the current slowdown on construction has hit ATM's business more than its competitors.

CMC refrained on commenting on dumping allegations on Thai HSS manufacturers however claimed that its Thai supplier [REDACTED] has been an export focused business and invested heavily in manufacturing high quality HSS that comply with Australian Standards over the years.

The team requested CMC to explain its [REDACTED]

[REDACTED] [Confidential CMC internal business policies]. CMC explained that there were [REDACTED]

[Confidential CMC internal sales policies]

[REDACTED] CMC highlighted that there has been an increase in imports of alloyed HSS which have not been included in the goods definition of the previous anti-dumping investigation for HSS<sup>3</sup> and provided the visit team with importation statistics

<sup>3</sup> Investigation 177: Alleged dumping of certain hollow structural sections exported from the People's Republic of China, the Republic of Korea, Malaysia, Taiwan and Thailand.

## PUBLIC RECORD

of HSS and alloyed HSS for September 2011 to June 2014 periods. This table is attached as **confidential attachment 5**. CMC claimed that the alloyed HSS imports have not been subject to currently imposed dumping duties and these products are still being marketed as being compliant to Australian standard AS/NZS1163:2009<sup>4</sup> which has created a new market dynamic which in CMC's opinion may be a means of circumventing the current measure in place. CMC explained it had not imported any of the alloyed goods under consideration. CMC explained that it believed that this practice is one of the reasons the market price for HSS has fallen as CMC claimed that it was forced to follow the market prices. CMC stated that it believed it was not driving HSS prices down but any other competitor, CMC had to react to the market demands even in an unfair competitive environment.

During the visit, CMC noted that in this dumping investigation application, the applicant (ATM) included square and rectangular goods up to and including 950mm perimeter. CMC claimed that ATM's local production could achieve a perimeter of only 600mm and questioned the inclusion of goods up to 950mm. CMC claimed that larger size square and rectangular HSS are used in structural applications and would not be able to be replaced with products manufactured by the Australian industry, and should be excluded from the goods under consideration.

CMC advised that its long term Thai supplier has been subjected to anti-dumping investigations since 1999. CMC stated the most recent Australian investigation (Case 177) have resulted in termination of investigation against its Thai supplier.

CMC also stated that these outcomes are supported by the findings of International Trade Commission of United States of America, which conducts annual reviews on the supplier in question. CMC explained that the most recent of these reviews resulted in no dumping margin again.

CMC stated that it will provide the Commission with a non-confidential version of the USA jurisdiction's current decision of 'no dumping' by its Thailand supplier.

---

<sup>4</sup> AS/NZS 1163:2009 only covers carbon steel HSS

## 9 RECOMMENDATIONS

Based on the outcome of the verification visit of CMC, the verification team is of the opinion that, for the goods imported by CMC directly from Saha Thai:

- the goods have been exported to Australia otherwise than by the importer, CMC;
- the goods have been purchased by the importer from the exporters; and
- the purchases of the goods by the importer were arm's length transactions.

Subject to further inquiries with the exporter, the verification team recommends that the export price for HSS imported by CMC from [REDACTED] can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the FOB level as required.

<b>10 APPENDICES AND ATTACHMENTS</b>
--------------------------------------

<b>Confidential Appendix 1</b>	Original submission of CMC's importation costs (Part B of importer questionnaire response)
<b>Confidential Appendix 2</b>	Revised submission of CMC's importation costs (Part B of importer questionnaire response)
<b>Confidential Appendix 3</b>	CMC's Part C sales listing in its importer questionnaire response
<b>Confidential Appendix 4</b>	CMC's complete sales listing for the investigation period.
<b>Confidential Appendix 5</b>	Variance of volume analysis
<b>Confidential Appendix 6</b>	Line by line comparison of monthly sales
<b>Confidential Attachment 1</b>	Source documents for 11 selected shipments
<b>Confidential Attachment 2</b>	Additional invoices provided
<b>Confidential Attachment 3</b>	Audited profit and loss statement for FY2013
<b>Confidential Attachment 4</b>	Unaudited profit and loss statement for FY2014
<b>Confidential Attachment 5</b>	Table showing increase in volume of alloyed HSS imports
<b>Attachment 6</b>	Arrium Ltd.'s 2014 Annual Report

# **ATTACHMENT 6**

## **ANNUAL REPORT 2014 ARRIUM LTD.**

**Arrium Ltd. 2014 Annual Report can be downloaded from here:**

**<http://www.arrium.com/investor-centre/shareholder-information/asx-announcements/fy-ending-2015/2014-annual-report>**