



INVESTIGATION 241

ALLEGED CIRCUMVENTION ACTIVITY INQUIRY INTO THE AVOIDANCE OF THE INTENDED EFFECT OF DUTY

CERTAIN ALUMINIUM EXTRUSIONS EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

VISIT REPORT - IMPORTER

P&O ALUMINIUM (SYDNEY) PTY LTD P&O ALUMINIUM (PERTH) 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

June 2014

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ABBREVIATIONS

\$	Australian dollars (also referred to as AUD)
ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
CIF	Cost, insurance and freight
Commission	Anti-Dumping Commission
██████████	██
FOB	Free On Board
Importers	P&O Aluminium (Sydney) Pty Ltd and P&O Aluminium (Perth) Pty Ltd
the goods	the goods the subject to the measure on the dumping notice (also referred to as the goods subject to measures)
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry
P&O Perth	P&O Aluminium (Perth) Pty Ltd
P&O Sydney	P&O Aluminium (Sydney) Pty Ltd
P&L	Profit and loss
SG&A	Selling, general and administration
WA	Weight average

1 BACKGROUND AND PURPOSE

1.1 Background

On 19 March 2014, Capral Limited (Capral) lodged an application with the Anti-Dumping Commission (the Commission) requesting:

- the publication of an altered dumping duty notice in respect of certain aluminium extrusions exported from the People's Republic of China (China); and
- the publication of an altered countervailing duty notice in respect of certain aluminium extrusions exported from China.

After consideration of the application, an inquiry was initiated on 14 April 2014, and public notification of the initiation of the investigation was published in *The Australian* on that day.

Anti-Dumping Notice (ADN) No. 2014/13 refers to the initiation of the investigation, and is available at www.adcommission.gov.au.

The Commission has not previously conducted an anti-circumvention inquiry in respect of certain aluminium extrusions.

The anti-circumvention inquiry is examining whether any of the following importers have engaged in circumvention activity that avoids the intended effect of duty, as outlined in subsection 269ZDBB(5A) of the Act. Capral alleges that the circumvention goods have been imported from PanAsia Aluminium (China) Limited in China by the following importers:

- P&O Aluminium (Brisbane) Pty Ltd;
- P&O Aluminium (Melbourne) Pty Ltd;
- P&O Aluminium (Perth) Pty Ltd;
- P&O Aluminium (Sydney) Pty Ltd; or
- Oceanic Aluminium Pty Ltd.

1.2 Purpose of visit

The purpose of the visit was to:

- confirm that P&O Sydney and P&O Perth is the importer of aluminium extrusions attributed to it within the commercial database;
- verify information on imports of aluminium extrusions to assist in the determination of the avoidance of duties taking place;
- establish whether the purchases of aluminium extrusions were arms-length transactions;
- establish post-exportation costs;

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- identify sales and customers and verify sales volume, selling prices and selling costs; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

1.3 Meeting details

Company	P&O Aluminium (Sydney) Pty Ltd 2/15 Bennett Street Chester Hill NSW 2162 P&O Aluminium (Perth) Pty Ltd on the premises of P&O Aluminium (Sydney) Pty Ltd 2/15 Bennett Street Chester Hill NSW 2162
Dates of visit	Monday, 23 June 2014, Tuesday, 24 June 2014

The following were present at various stages of the meeting:

P&O Aluminium (Sydney) Pty Ltd	██████████ General Manager P&O Aluminium (Sydney and Perth) Pty Ltd
P&O Aluminium (Perth) Pty Ltd	██████████ Consultant representing P&O Aluminium (Sydney) Pty Ltd and P&O Aluminium (Perth) Pty Ltd
the Commission	Candy Caballero – Director Rebecca Oliver – Investigator, Operations 3 Antoinette Failla – Investigator, Operations 3 Con Soumbassis – Investigator, Operations 3 Maree Kaleta – Assistant Investigator, Operations 3

1.4 Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- The investigation period is 1 January 2013 to 31 December 2013.
- The Commissioner will provide his final report and recommendations for the inquiry to the Parliamentary Secretary by 24 October 2014¹²; or such later date as the Parliamentary Secretary allows under s.269ZHI of the *Customs Act 1901* (the Act)³.

The Parliamentary Secretary's decision is due within 30 days of receiving the recommendation.

1.5 Anti-circumvention in general

According to the Commission's Dumping and Subsidy Manual⁴ (Manual):

"Circumvention activity that avoids the intended effect of duty occurs where dumping and/or countervailing duty has been imposed (and is being paid by the importer) but there is little or no effect, over a reasonable period, on the price for the goods in the Australian market e.g. the price at which the goods are sold by the importer has not increased in line with the duty paid."

The Manual explains that it is expected that the prices of imported, dumped goods would increase in the Australian market after anti-dumping or countervailing duties have been applied. It is expected that the additional duty paid by the importer is generally passed on to the consumer or end user by way of increased domestic prices.

Where the inquiry concludes that the circumvention activity has occurred because of a lowering of the export price, sales at a loss, reimbursement or compensation from the exporter, or other activity of a similar nature, the Commissioner may recommend to the Minister that the notice be altered.

The Commissioner may terminate an investigation before conclusion where the Commissioner is satisfied that no circumvention activity has occurred.

Decisions by the Commissioner to terminate and by the Parliamentary Secretary to impose measures can be appealed to the Anti-Dumping Review Panel (ADRP). In any appeal to the ADRP only information before the Commissioner/Parliamentary Secretary may be taken into account.

¹ On 15 July 2014 the Parliamentary Secretary approved a 45 day extension to the due date for the Final Report. The original due date was 23 July 2014.

² On 28 August 2014 the Parliamentary Secretary approved a 45 day extension to the due date for the Final Report. The prior due date was 6 September 2014.

³ All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

⁴ The Dumping and Subsidy Manual can be accessed at: <http://www.adcommission.gov.au/reference-material/manual/default.asp>

The Anti-Dumping Commission (ADC) website www.adcommission.gov.au has detailed information on anti-dumping investigation procedures. The Electronic Public Record (EPR) contains all non-confidential information on the rod in coil investigation.

1.6 Visit report

P&O Aluminium Sydney and P&O Aluminium Perth were advised that the Commission would prepare a report of the visit (this report) and provide it to them to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

It was explained that, in consultation with P&O Aluminium Sydney and Perth Pty Ltd, the Commission would prepare a non-confidential version of the report, and place this on the inquiry's public record.

1.7 Original investigation

Below is a brief summary of the investigation and the related reinvestigation and Federal Court proceedings, in respect of the aluminium extrusions anti-dumping measures

In 2009, Capral Limited (the applicant), on behalf of the Australian industry manufacturing certain aluminium extrusions, lodged an application requesting that the then Minister for Home Affairs publish a dumping duty notice and a countervailing duty notice in respect of aluminium extrusions exported to Australia from China. Capral's application resulted in the initiation of an antidumping and countervailing investigation on 24 June 2009 (original investigation). One of the exporters identified in the original investigation is PanAsia Aluminium (China) Limited (PanAsia).

During the original investigation, the following importers:

- PanAsia Aluminium (Brisbane) Pty Ltd (now known as P&O Aluminium (Brisbane) Pty Ltd);
- PanAsia Aluminium (Melbourne) Pty Ltd (now known as P&O Aluminium (Melbourne) Pty Ltd); and
- PanAsia Aluminium (Sydney) Pty Ltd (now known as P&O Aluminium (Sydney) Pty Ltd);

submitted responses to importer questionnaires.⁵ Verification visits were conducted at the premises of these three importers. At the time of the verification visits, the three companies were related, and accordingly, only one verification report with respect to the three related entities (P&O Importer Visit Report) was produced.⁶

⁵ At the time of the original investigation, it was considered that PanAsia Aluminium (Perth) Pty Ltd (now known as P&O Aluminium (Perth) Pty Ltd) was not required to provide a response to an importer questionnaire.

⁶ The P&O Importer Visit Report relating to PanAsia Aluminium (Brisbane) Pty Ltd, PanAsia Aluminium (Melbourne) Pty Ltd and PanAsia Aluminium (Sydney) Pty Ltd can be accessed at: <http://www.adcommission.gov.au/cases/148.asp>

The Commission notes that during the original investigation, Oceanic Aluminium Pty Ltd submitted responses to the importer questionnaire, however no verification visit was conducted.

On 28 October 2010, anti-dumping measures, in the form of a dumping duty notice and countervailing duty notice were imposed on certain aluminium extrusions from China⁷. Trade Measures Report No.148 (REP 148)⁸ set out the dumping and subsidy margins applicable to Chinese exporters, except for Tai Ao Aluminium (Tai Shan) Co Ltd. The recommendations from REP 148 were presented to and subsequently accepted by the Attorney-General. Notice of the Attorney-General's decision was published in the Government Notices Gazette and *The Australian* newspaper on 28 October 2010.

1.8 Reinvestigation – Report No 175

Several applications were made to the Trade Measures Review Officer (TMRO) for review of the Attorney-General's decision. The TMRO recommended that the Attorney-General direct the Chief Executive Officer of the Australian Customs and Border Protections Services (ACBPS) to conduct a reinvestigation into certain findings made in REP 148⁹.

International Trade Remedies Report No. 175 (REP 175) set out the findings as a result of the reinvestigation¹⁰. Subsequently, the Attorney-General accepted the recommendations from REP 175 and published new notices on 27 August 2011, replacing the earlier dumping duty and countervailing duty notices.

1.9 Federal Court proceedings

Two Chinese exporters, Tai Shan City Kam Kiu Aluminium Extrusion Co Ltd (and its related companies Kam Kiu Aluminium Products SDN BHD and Kam Kiu (Australia) Pty Limited) (Kam Kiu) and PanAsia (and its related company Opal (Macao Commercial Offshore) Limited), applied to the Federal Court for judicial review of the Attorney-General's decision based on REP 175.

On 4 September 2013, the Federal Court held that the Attorney-General had no power to vary the dumping and countervailing duty notices to impose anti-dumping measures for aluminium extrusions by finish. The effect of the decision was that the rates of

⁷ ACDN 2010/40

⁸ The original investigation culminated in the Trade Measures Report no 148, "Certain aluminium extrusions exported from the People's Republic of China - Finding in relation to a dumping and subsidisation investigation, published 28 October 2010. This report is available at: <http://www.adcommission.gov.au/cases/ITR148.asp>

⁹ ACDN 2011/21

¹⁰ ACDN 2011/31

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dumping and countervailing duty against the applicants, Kam Kiu and PanAsia, had to be amended and these changes were applied retrospectively from 27 August 2011.¹¹

1.10 Original notices

As required under subsection 269ZDBC(1), this application is submitted in light of a dumping duty notice published under subsection 269TG(2) and a countervailing duty notice published under subsection 269TJ(2).

Due to the history of this matter, as set out in sections 1.2 to 1.4 above, the notices published on 28 October 2010, had been amended by the reinvestigation and then finally by the Federal Court judgment. For the purposes of this inquiry, the original notices are the notices published on 28 October 2010, as amended by the reinvestigation and finally, by the Federal Court judgment (original notices).

The final applicable dumping margin and level of subsidisation established for PanAsia are set out in Table 1 below, with the ascertained export price set at [value].

Exporter / goods	Dumping Margin	Subsidy margin	Effective rate of combined interim duty	Duty methods
PanAsia Aluminium (China) Limited All finishes	10.1%	6.1%	10.1%	Dumping - fixed (ad valorem) and variable duty methods Countervailing – fixed (ad valorem) duty method

Table 1 – Applicable dumping margin and level of subsidisation for PanAsia

¹¹ ADN 2013/80

2 THE GOODS

2.1 Description of the Goods

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

“Aluminium extrusions produced via an extrusion process, of alloys having metallic elements falling within the alloy designations by The Aluminium Association commencing with 1,2,3,5,6 or 7 (or proprietary or the other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness or diameter greater than 0.5 mm., with a maximum weight per metre of 27 kilograms and a profile or cross-section which fits within a circle having a diameter of 421 mm.”

The Commission notes that REP 148 also includes the additional description of the goods:

The goods include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

For further details regarding the goods, refer to ADN 2014/31 which is available on the public record.

2.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff Classification	Stat Code	Goods
7604.10.00	06	Non –alloyed aluminium bars, rods and profiles
7604.21.00	07	Alloyed aluminium hollow profiles - Angles, other shapes and sections
7604.21.00	08	Alloyed aluminium hollow profiles – Other
7604.29.00	09	Alloyed aluminium non – hollow profiles – Angles, other shapes and sections
7604.29.00	10	Alloyed aluminium non – hollow profiles – Other
7608.10.00	12	Non – alloyed aluminium tubes and pipes
7608.20.00	10	Alloyed aluminium tubes and pipes

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Tariff Classification	Stat Code	Goods
7610.10.00	12	Aluminium doors, windows and their frames and thresholds for doors

Table 2- Tariff Classifications

The rates of duty for the goods from China are 4% for goods classified to headings 7604 7608 and 5% for goods classified to heading 7610.

3 COMPANY DETAILS

3.1 Company Overview

3.1.1 Organisational structure

P&O Aluminium Sydney and P&O Aluminium Perth are a part of a sales group known as P&O Aluminium. [REDACTED]

[REDACTED] [licencing arrangements]. The P&O Aluminium sales group offers a national branch and distribution network which allow customers to draw stock from any of the group's distribution centres, as stated on the P&O Aluminium website. [REDACTED]

At the time this enquiry was initiated, P&O Sydney and P&O Perth had the same owner (single shareholder), [REDACTED] [owner's name]. P&O Melbourne and P&O Brisbane have separate ownership structures to the Sydney and Perth P&O branded company's.

As of the 1 June 2014, the four P&O branded company's, together with the fifth importer subject to this enquiry (Oceanic Aluminium Pty Ltd) were acquired by [REDACTED], a new company set up for acquisition and grouping of these companies. However ASIC records do not indicate [REDACTED] as the beneficial owner of the importers subject to the inquiry.

At the time of the visit, P&O Sydney had [REDACTED] staff members. With [REDACTED] warehouse personnel and [REDACTED] truck drivers, with the remaining staff responsible for sales, administration and management. P&O Perth is a smaller operation, with [REDACTED] warehouse staff, [REDACTED] driver and [REDACTED] office staff responsible for sales, administration and management.

3.1.2 Functions of company

The importers informed the Commission that they import and sell a range of standard and custom aluminium extrusions, fabricated products and product kits such as aluminium fencing kits. [REDACTED]

[REDACTED] [other services]

3.1.3 Product range

The importers defines there product offering in two groups, standard and suites, which include:

Standards –

- flat bar
- angles
- channels structural angle
- channel extruded tube
- telescopic tube square & rectangular hollow tee section solids
- round and square miscellaneous shapes
- louvres
- marine products.

Suites –

- Coolroom products
- structural angle & channel
- security door frames & accessories extruded fly frame & accessories
- security window frames & accessories
- awning window suite 50mm
- awning sash 100mm & 150mm
- framing system front glazed 100 x 50 & 150 x 50 & double glazed commercial door
- balcony suite
- glazing adaptors
- balustrade
- security mesh.

Within these groups, the company offers aluminium extrusions which fall within the definition of the goods subject to measures.

3.2 Accounting

The importers operate to a financial year ending 31 December. The importers use MYOB as its main accounting system and consolidates the two entities for internal reporting purposes.

At the time of the verification visit, the importers did not have audited financial reports for the 2013 financial year and were only able to supply a consolidated, unaudited

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report for the two entities. For the purpose of upward verification of sales, the company allowed ADC to view a report which separated the two company's 2013 financials. ADC has requested a copy of this report but has been advised that the company will require its release to be authorised by the company's new owners [REDACTED]. This information has not been supplied.

At the verification visit, [REDACTED] (General Manager, P&O Sydney) advised the Commission that after the acquisition of the five importers subject to this inquiry by [REDACTED], the 2013 financial year data sets were removed from the importers accounting systems and transferred off-site and as a result, the company has been unable to access information in a timely manner.

Following the verification visit, the importers endeavoured to provide further information to the Commission. The importers provided revised Part B shipment data which identify direct shipment, a freight rate schedule, selected customer purchase orders for direct shipments, selected purchase orders sent to suppliers, packing lists related to selected shipments and proof of payment to suppliers.

However, the importers did not supply:

- separate P&L statements for P&O Sydney and P&O Perth. Commission staff were offered the opportunity to view these on [REDACTED], although the Commission was provided with the separate P&L statements during the meeting to allow verification of SG&A expenses; and,
- revised sales spread sheets which indicated sales of the goods due to the inability of the importer's sales systems to provide a detailed description to properly identify type of goods sold,
- data used to calculate the quantity lines on the P&L extract provided to the Commission at the visit,

3.3 Relationship with suppliers

At the time of the original investigation in 2010, PanAsia enterprises group limited (PanAsia) was the owner of the five importers subject to this enquiry. Since this time, the ownership of the five importers has changed twice. Once as per the list below and again on 1 June 2014 when all five importers subject to this enquiry were said to be purchased by [REDACTED].

- On 20 June 2013 PanAsia Aluminium (Brisbane) Pty Ltd changed ownership. Formally known as PanAsia Aluminium (Brisbane) Pty Ltd, this company is now known as P&O Aluminium (Brisbane) Pty Ltd;
- On 20 June 2013 PanAsia Aluminium (Melbourne) Pty Ltd changed ownership. Formally known as PanAsia Aluminium (Melbourne) Pty Ltd, this company is now known as P&O Aluminium (Melbourne) Pty Ltd;
- On 20 June 2013 PanAsia Aluminium (Sydney) Pty Ltd changed ownership. Formally known as PanAsia Aluminium (Sydney) Pty Ltd, this company is now known as P&O Aluminium (Sydney) Pty Ltd;
- On 20 June 2013 PanAsia Aluminium (Perth) Pty Ltd changed ownership. Formally known as PanAsia Aluminium (Perth) Pty Ltd, this company is now known as P&O Aluminium (Perth) Pty Ltd;

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- On 20 June 2013 Oceanic Aluminium Pty Ltd changed ownership but remains known as Oceanic Aluminium Pty Ltd.

At the time of the original investigation, [redacted] [exporter] and its subsidiaries were the sole suppliers of aluminium extrusions to P&O Sydney and Perth, and while [redacted] [exporter] and its subsidiaries remains the sole Chinese based suppliers to P&O Sydney and Perth, the importers now also purchase through a [redacted] [alternative source]

[redacted] [company employee] advised that neither P&O Sydney or P&O Perth had any relationship to [redacted] [exporter] other than a normal commercial buyer/seller relationship.

P&O Sydney and P&O Perth advised that the reason for moving some of its supply to the [redacted] [country] based supplier was to take advantage of lower landed costs. The company(s) are expecting to continue to move manufacture to this new supplier but advise that some products would need to remain with [redacted] [exporter] as it was not economic to shift supply due to the cost of setup for some unique product groups.

During the verification visit, the visit team found no evidence of discounts, rebates or reimbursements provided to P&O Sydney or Perth by [redacted] [exporter]

3.4 Relationship with customers

The importers advised that they had no relationship with customers beyond a normal commercial relationship.

P&O Sydney and P&O Perth sell into various markets, [redacted]

[product categories]

[redacted] [description of rebates]

4 IMPORTS

4.1 Import Volumes

The Commission conducted an analysis of the import listing from the ACBPS' import database for all imports of aluminium extrusions subject to measures from all sources for the period from 1 January 2013 to 31 December 2013.

4.1.1 P&O Aluminium (Sydney)

Based on data from the ACBPS commercial database, P&O Sydney imported [REDACTED] kilograms of the goods during the investigation period.

The Commission calculated the following volume of P&O Sydney imports of aluminium extrusion subject to measures for the investigation period by exporter:

Exporter	Total Quantity (kg)
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Table 3- Import Volumes P&O Sydney

4.1.2 P&O Aluminium (Perth)

Based on data from the ACBPS commercial database, P&O Perth imported [REDACTED] kilograms of the goods during the investigation period.

The Commission calculated the following volume of P&O Perth imports of aluminium extrusion subject to measures for the investigation period by exporter:

Exporter	Total Quantity (kg)
[REDACTED]	[REDACTED]

Table 4- Import Volumes P&O Perth

4.2 Verification of imports

Prior to the visit, the Commission selected 30 shipments from the ACBPS import database and requested P&O Sydney and P&O Perth to prepare a listing of all associated costs for these shipments. This forms confidential appendix 1.

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The Commission also selected 20 of the imports identified as being outside the description of the goods under consideration for further verification. P&O Sydney and P&O Perth supplied the necessary import documentation for these shipments which have been verified against the ACBPS database.

P&O Sydney and P&O Perth provided source documents to verify data in its importer questionnaire for the 30 selected shipments. These documents form **Confidential Attachment 2**.

These source documents included the:

- copy of the importer declaration form (Nature 10);
- bill of Lading;
- supplier invoice for the goods and a invoice for a special packaging fee;
- packing declaration;
- manufacturer's certificate;
- container weight declaration; and
- packing list;
- customs clearance, port charges, storage, and delivery invoice.

The Commission noted that the source documents supplied included a proforma invoice for the value of the goods, insurance and transport and the special packaging fee.

The Commission had requested, received and verified copies of the following source documents both P&O Sydney and P&O Perth.

- purchase order to the supplier;
- evidence of payment to the supplier;
- customer purchase order;
- customer invoice for select direct shipments;
- packing list to the customer; and
- proof of payment from the customer.

4.2.1 Selected Shipments Imports Profile

P&O Sydney:

The shipment sample referred to in section 4.2 represented [REDACTED] kg of aluminium extrusions which were declared as the goods subject to measures.

The composition of imported aluminium extrusions represented in the shipment sample is summarised into the following table.

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Goods Description	Quantity (kg)	%
Anodised		
Mill Finish		
Powder Coated		
Unknown		
TOTAL		

Table 5- Imports Profile P&O Sydney

P&O Perth:

The shipment sample referred to in section 4.2 represented [REDACTED] of aluminium extrusions which were declared as the goods subject to measures.

The composition of imported aluminium extrusions represented in the shipment sample is summarised into the table below.

Goods Description	Quantity (kg)	%
Anodised		
Mill Finish		
Powder Coated		
Unknown		
TOTAL		

Table 6- Imports Profile P&O Perth

4.2.2 Cost to import P&O Aluminium (Sydney)

The Commission matched the invoice values, volume and supplier details for all 30 selected shipments to the supplier invoices. (**confidential attachment 3**)

The Commission confirmed that all shipments were invoiced at [REDACTED] [import terms] and noted that the invoice terms in the ACBPS commercial database were recorded as [REDACTED]. P&O Sydney confirmed that all shipments were invoiced at [REDACTED] [import terms], and that its broker had [REDACTED]. The commission considers this methodology to be appropriate in order for the importers to comply with the terms of the dumping measures.

P&O Sydney advised that the standard credit terms from [REDACTED] [exporter] [REDACTED] [exporter credit terms] from the date of goods/ship arrived in Aust. Port.'

All invoices were in [REDACTED] [currency]

4.2.3 Cost to import P&O Aluminium (Perth)

The Commission was able to match the invoices prices, volume and supplier details for 25 of the 30 shipments. The Commission confirmed that all shipments were invoiced at [REDACTED] [import terms] and noted that the invoice

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terms in the ACBPS commercial database were recorded as [redacted]. P&O Sydney confirmed that all shipments were also invoiced at [redacted] [import terms]. The company advised that the Broker has entered the [redacted]

[redacted] [entry details]. The commission considers this methodology to be appropriate in order for the importers to comply with the terms of the dumping measures.

P&O Sydney and P&O Perth advised that the standard credit terms from [redacted] [exporter] China [redacted] [exporter credit terms].

All invoices were in [redacted] [invoice currency]

Proof of payment

From the source documents provided, the was able to sight proof of payment to suppliers by way remittance advice and bank statements.

4.2.4 Packaging

Packaging costs were provided in the cost to import and sell worksheet and were verified against the shipment invoice and were apportioned a ratio of the line shipment weight to total container weight.

4.2.5 Shipment costs

Under the heading of 'Shipment Costs' in the importer questionnaire, P&O Sydney and P&O Perth entered amounts for both the overseas freight and insurance costs.

The Commission compared these amounts recorded in the importer questionnaire against the supplier invoices.

The shipment costs section of the cost to import and sell worksheet required the input of a number of import cost types. The importers provided the following information:

- Duty for Container
- Customs brokers fees
- Quarantine charges
- Wharf storage
- Port service charges
- Delivery
- Tailgate
- Bank charges
- CMR Compliance Fee-Brokerage
- Documentation
- Brisbane Port Infrastructure Levy
- Postage & Patties

4.2.6 Australian Importation costs

Under the heading of 'Australian Importation Costs' in the importer questionnaire, P&O Sydney and P&O Perth entered amounts for customs entry fees and duty, including interim dumping duty and interim countervailing duty, customs broker fees, wharf storage, port service charges and delivery.

The Commission compared the amounts recorded in the importer questionnaire with the provided customs broker invoice and found the charges displayed on these invoices matched. A number of minor discrepancies were identified which the Commission did not consider substantial and has amended for the purpose of calculating the weighted average Australian importation costs summarised in sections 4.2.7 and 4.2.8.

4.2.7 Dumping and Countervailing Duty

During the investigation period, the dumping and countervailing duties applied to the exports of aluminium extrusions by PanAsia were altered following the 4 September 2013 decision of the Federal Court, as set out in section 1.9. As a result, the duties paid by the importers up to that point are now subject to adjustment. The Commission was advised by the importer that it was in the process of amending the relevant import declarations with the objective of seeking a refund on any duty which was overpaid. For the purpose of calculating import costs, the Commission has applied the AEP and the rate of duty as required by the Federal Court.

4.2.8 Importation costs P&O Sydney

The Commission calculated the weighted average importation costs for the selected shipments. These calculations are summarised in Table 7 below (expressed in Australian dollars per kilogram).

Cost	Weighted average cost per unit (kilogram)
Overseas Freight and Insurance	
Wharf Storage	
Customs Brokers Fee	
Port Service Charges	
Bank Charges	
Australian Delivery Charges	
Total	

Table 7- Importation Costs P&O Sydney

The basis of these calculations is contained in **Confidential Appendix 2**.

4.2.9 Importation costs P&O Perth

The Commission calculated the weighted average cost and freight expenses for the selected shipments. These calculations are summarised in Table 8 below (expressed in Australian dollars per kilogram).

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Cost	Weighted average cost per unit (kilogram)
Overseas Freight and Insurance	
Customs Entry Fee	
Customs Brokers Fee	
Port Service Charges	
Packaging Fee	
Australian Delivery Charges	
Total	

Table 8- Importation Costs P&O Perth

The basis of these calculations is contained in **Confidential Appendix 3**.

4.3 Selling, general and administrative (SG&A) costs

The Commission noted in the importer questionnaire that P&O Sydney calculated selling, general and administration (SG&A) costs for each of the 30 selected shipments based on an SG&A [REDACTED]

[REDACTED] [SG&A costs]

P&O Sydney explained that it calculated its SG&A cost by dividing its total selling and administration cost by its total external sales for the investigation period, which results in an SG&A cost of [REDACTED]. P&O Sydney explained that to calculate the SG&A estimate of [REDACTED] for direct shipments to customer, P&O Sydney divided its total selling and administration costs, minus salaries, sales commission costs, travel expenses, rental and rate expenses for the warehouse, by its total external sales for the investigation period.

P&O Perth calculated its SGA cost by dividing its total selling and administration cost by its total external sales for the investigation period, which results in an SG&A cost of [REDACTED]

P&O Sydney provided a consolidated P&L statement for both P&O Sydney and P&O Perth for the investigation period, attached at **Confidential Attachment 4**. At the visit, the Commission was able to sight the individual P&L statements and verify the individual total selling expenses and external sales for each P&O Sydney and P&O Perth.

The Commission requested a copy of the individual P&L statements as well as the following documents to assist with verification of SG&A costs.

- Ledger for the sales commission for P&O Sydney;
- Evidence that travel expenses do not relate to direct sales;
- Evidence of selling expenses incurred for direct sales; and
- Rental and rate expenses

Beyond a visual inspection at the visit, the entity level profit and loss statements for each importer have not been provided to the Commission. Whilst the Commission accepts that direct shipments would likely incur lower SG&A costs, in the absence of

the profit and loss statement and detailed calculations, the SG&A costs could not be verified.

4.4 Cost of imported goods

Relying on the data contained in the ACBPS import database and the information contained in the shipment sample, the Commission was able to calculate the weighted average cost of aluminium extrusions imported from [redacted] [exporter].

To ensure consistency with the Federal Court decision regarding the application of dumping and countervailing duties it is necessary to summarise the imported goods by finish type. The weighted average fully absorbed cost of imported goods shown in the table below is inclusive of the invoice price of the goods, the weighted average importation costs discussed in section 4.2, and the relevant duty payable for each finish type. The invoice price of the goods also includes adjustment for credit terms of [redacted] [credit terms]

As indicated in section 4.2.1, a portion of aluminium extrusions imported from [redacted] [exporter] was not described by finish type. Accordingly, these shipments have been excluded from the calculation.

Finish Type	Qty (kg)	Total Cost of Imported Goods	WA Cost of Goods p/kg
Anodised	[redacted]	[redacted]	[redacted]
Mill Finish	[redacted]	[redacted]	[redacted]
Powder Coated	[redacted]	[redacted]	[redacted]
Total	[redacted]	[redacted]	

Table 9- P&O Perth fully absorbed cost to import (Confidential Attachment 8)

Finish Type	Qty (kg)	Total Cost of Imported Goods	WA Cost of Goods p/kg
Anodised	[redacted]	[redacted]	[redacted]
Mill Finish	[redacted]	[redacted]	[redacted]
Powder Coated	[redacted]	[redacted]	[redacted]
Total	[redacted]	[redacted]	

Table 10- P&O Sydney fully absorbed cost to import (Confidential Attachment 8)

5 SALES

5.1 General

The importers advised that the P&O Sydney and P&O Perth markets for aluminium extrusions could be categorised in three main groups, [REDACTED] [market groups]. These broad customer groups typically sold these products either as is or after further processing, selling into various industries, including [REDACTED] [product categories]

5.2 Sales

The sales data provided was prepared so that each sale was identified by finish type, country of origin and classified as sales of items as either 'the goods' (i.e. Subject to the dumping notice) or not the goods. An examination of all sales reported in part C of the importer questionnaire spread sheets revealed that the Commission identified that [REDACTED] of sales reported by P&O Sydney and P&O Perth, respectively were either imported from [REDACTED] [country] (therefore not subject to the measures), or described in such a way in which they did not appear to be the goods.

During the visit, the Commission questioned the importers about concerns the Commission had regarding the description of many of the sales that were selected by the importers as the goods but appeared not to be. The importers stated that they were unable to tell which products were the goods and which were not through information contained in the sales database.

The importers committed to reviewing the sales data in order to identify which sales were the goods, however on 18 July 2014, the importers advised the Commission that conducting a further review of the data provided in the questionnaire would require at least six months. As a result, the sales data provided in the table below is based on the sales lines which the Commission has determined should be excluded from the analysis based on descriptions.

P&O Sydney

P&O Sydney reported sales revenue of all goods and services during calendar year 2013 of approximately [REDACTED]. Within this sales of the goods imported from [REDACTED] [country] were approximately [REDACTED]. Within the reported sales revenue of all goods and services, the sales value of products considered the goods was [REDACTED]

P&O Sydney had [REDACTED] customers within the 2013 year with the top 10 customers by volume being:

Company	Volume (kg)
[REDACTED]	[REDACTED]

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[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Finish	Volume (kg)	Sales Revenue (\$)	WA Unit Selling Price (\$)
Anodised	[REDACTED]	[REDACTED]	[REDACTED]
Mill Finish	[REDACTED]	[REDACTED]	[REDACTED]
Powder Coated	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	

*Table 11 – P&O Sydney 2013 Sales of Aluminium Extrusions from China
(Confidential Attachment 9)*

P&O Perth

P&O Perth reported sales revenue of all goods and services during calendar year 2013 of approximately [REDACTED]. Within this sales of the goods imported from [REDACTED] [country] were approximately [REDACTED].

Within the reported sales revenue of all goods and services, the sales value of products considered the goods was [REDACTED]

P&O Perth had [REDACTED] within the 2013 year with the top 10 customers by volume being:

Company	Volume (kg)
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Finish	Volume (kg)	Sales Revenue (\$)	WA Unit Selling Price (\$)
Anodised			
Mill Finish			
Powder Coated			
Total			

Table 12 – P&O Perth 2013 Sales of Aluminium Extrusions from China
(Confidential Attachment 9)

5.3 Ordering and sales process

P&O Sydney and P&O Perth advised that their pricing methodology when quoting to key customers is based on the LME [REDACTED]

[LME pricing methodology] The companies advised that even relatively small buyers have been educated in seeking to compare competitor pricing and contracts in this way making it challenging for P&O Sydney and P&O Perth to seek higher margins based on standard price lists.

The companies advised that they had three type of sales order.

1. Stock Orders, whereby the goods are picked from the warehouse and shipped as per customers instructions.
2. LCL, when containers containing goods for specific customer orders, but where the goods are less than a full container load, the company transports the shipments from port to the company's distribution centre, decant the container and ships goods directly to customers without warehousing the goods, and;
3. FCL (direct), whereby customer orders of whole container loads are shipped directly from the exporter to the customer. This method of sale is mainly used to service [REDACTED]

[customer name]

P&O Sydney offers some customers rebates [REDACTED]

[rebate description]

P&O Sydney and Perth typically sell free into store (FIS), however they do charge freight for customers who have delivery points that are considered too far from the distribution facility to qualify for the FIS option. For these companies and locations, a freight rate schedule is negotiated and agreed to with customers as required. This freight charge is an off invoice charge (i.e. invoiced separately) and is not accounted for within the P&O Sydney and P&O Perth sales reports.

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As set out in 3.1 above, based on the P&O groups website, the P&O branded companies market themselves as a group and offer a national distribution network. All national customer contracts are required to be negotiated individually with each company. The P&O branded companies market themselves as a group and offer national distribution contracts, whereby customers can negotiate the pricing on products and can draw stock from any of the P&O branded distribution centres, including P&O Sydney, P&O Perth, P&O Brisbane and P&O Melbourne. These national distribution contracts are contracted with P&O Sydney, however where stock is drawn from other group members, the sales will belong to the company from where the stock was drawn.

P&O Sydney and P&O Perth advised that approximately [REDACTED] of their products were exclusive shapes based on customer specific requirements. The importers believe that their success in gaining sales is in major part due to their ability to work closely with customers with their design and product development process.

P&O Sydney's largest customer is [REDACTED]. P&O Perth's largest customer is [REDACTED], who primarily purchase [REDACTED] [product description], typically consisting of [REDACTED]. P&O Perth does not consider [REDACTED] [exempt goods] to be the goods under consideration.

5.4 Verification to source documents

P&O Sydney and P&O Perth supplied invoices and proof of payment in the form of remittance advices and bank statements relating to 10 sales for each company selected by the Commission from the sales listing provided. These invoices and proof of payment form **Confidential Attachment 5**

The Commission was able to reconcile most of the details (value, invoice date, delivery terms) on the selected sample of sales invoices when comparing to the P&O Sydney and P&O Perth importer questionnaire sales data. However, significant variation in the credit terms was observed.

None of the credit terms shown on the sampled invoices was found to match the importer questionnaire sales data. The payment terms on the invoices indicated that P&O Perth customers were consistently offered payment terms of [REDACTED] and P&O Sydney customers were offered various credit terms of [REDACTED].

With the exception of the inaccurate credit term data, the Commission is satisfied that the invoice details recorded in the P&O Sydney and P&O Perth sales listings is reasonably accurate, and that P&O Sydney and P&O Perth customers paid the invoiced amounts for these transactions.

5.5 Verification to management accounts

The Commission requested P&O Sydney and P&O Perth representatives to provide the Commission with documents to conduct an upwards reconciliation from sales listing supplied to its management accounts. P&O provided a consolidated, unaudited profit and loss statement. The Commission further advised that it would require a copy of the financial statement for each entity.

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The importers consultant advised that entity level profit and loss statements existed however these could not be provided to the Commission without the express permission of the new owners, [REDACTED]. Although copies of these statement were not provided, the Commission was afforded the opportunity of visual examination at the visit.

The Commission was able to reconcile the sales listing provided to within a reasonable variance the total sales listing supplied by the importers to the reports as shown on the screen and was satisfied that the sales listing provided was complete.

The P&L statements displayed on the screen also showed volumes which did not balance back to the volumes in the sales spreadsheet supplied to within a reasonable level. The P&O Sydney and Perth representative advised that this was due to unit sales being counted by the report as weight (kg) sales.

The Commission has requested copies of the separate P&L statements for P&O Sydney and P&O Perth, however, the importer declined to provide these.

5.6 Profitability of sales

During the visit, the Commission advised the importers that the Commission's initial analysis indicated that the importers were making many sales at a loss. The importers were asked why, given that they were trading goods, they would be selling at loss making prices. The importers agreed that P&O Sydney and P&O Perth entities were trading unprofitably however explained that numerous factors were relevant to this situation. First, the original ascertained export prices imposed by finish created an inflexible floor price which did not allow for the purchase costs of the imported goods to move in line with movements in LME aluminium ingot prices. This proved pivotal as selling prices in the Australian market are set by reference to LME aluminium ingot prices. Therefore, when the LME price for aluminium ingot declined below the imposed ascertained export prices, the importers were unable to negotiate lower export prices with PanAsia due to the imposition of the variable component of dumping/countervailing duty.

Second, P&O's key competitors in the Australian market, including Capral, were offering reduced prices which reflected the decline in the LME ingot price and sourcing of cheaper imported extrusions from countries not subject to measures. This placed P&O under pressure to reduce its selling prices consistent with the prevailing LME ingot price and competitor's selling prices, or risk losing long-standing customers to competitors.

P&O's decision to reduce selling prices to certain customers and certain extruded profiles, to align with prevailing market prices, was taken with a view that:

- a) any losses could be offset by profitable sales of imported extrusions from China and other fabricated products;
- b) a successful challenge by PanAsia in the Federal Court could overturn or amend the measures originally imposed, and
- c) a transition to sourcing extrusions from [REDACTED].

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P&O explained that transferring the production of extrusions between manufacturers was a slow process due to the manufacture and testing of dies, the long lead times for the new supplier to retool and the suppliers ability to obtain Australian standards accreditation. However, P&O noted that at the time of the visit, Perth and Sydney were currently sourcing approximately [REDACTED] of its extrusions from [REDACTED].

To substantiate its description of the market, P&O provided a sample of prices being offered in the marketplace across the period January 2013 to June 2014 (Confidential Attachment 6). The pricing information obtained by P&O from its customers includes offers made by local and Malaysian suppliers. The Commission compared these offers to the LME pricing chart provided by P&O (Confidential Attachment 7).

The Commission notes that prices being offered in the marketplace appears to follow the movement in LME price and the Free in Store prices were higher than P&O. The LME data also shows that price in quarter two and three of 2011 the LME price decreased steadily by approximately fifty cents to settle between \$1.75 and \$2.00 from the beginning of 2012 to the present. A further evaluation of this trend will be conducted by the Commission to determine how this relates to the current allegations of circumvention activity.

The importers also advised that it was gradually looking to increase its imports of aluminium extrusions from a new [REDACTED] [country] supplier, [REDACTED] [exporter], as the costs to buy and import from [REDACTED] [exporter] are significantly lower than imports from [REDACTED] [exporter] in China. Some products would need to continue to be sourced from China, as for some low volume products the cost of making extrusion tools would be cost prohibitive.

The consolidated P&L statement for P&O Sydney and P&O Perth showed an operating loss for the 2013 financial year of [REDACTED] [value].

The Commission undertook a detailed analysis of the profitability of direct shipments based on the shipment data discussed in 4.2.1 as these direct shipments allow for a very accurate analysis of the pricing strategy and profitability of the importers sales.

P&O Sydney

An analysis of the data provided by P&O Sydney in relation to imports of aluminium extrusions shipped directly to customers indicated that [REDACTED] sales were at a profit and [REDACTED] sales were at a loss, with the range of profit or loss between a [REDACTED] profit and a [REDACTED] loss. This analysis forms part of **confidential appendix 2**.

P&O Perth

An analysis of the single direct shipment of aluminium extrusions by P&O Perth was found to be traded at a loss [REDACTED]. This analysis forms part of **confidential Appendix 3**.

The Commission compared the selling prices in the importers sales data with the corresponding full cost to import and sell for the various finish types of aluminium

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extrusion as shown in in section 4.4. The profitability analysis by finish type is necessary to ensure that the cost of goods sold is accurately represented. The objective of the profitability analysis is to determine if the goods subject to measures have been sold at a loss, i.e. Total revenue less cost of goods sold.

Total sales revenue is based on the invoice values reported in the sales data provided by P&O Perth in Part C of its importer questionnaire response. As noted in section 5.4, the credit terms detailed in the sales listing was found to be inconsistent with the sample of sales invoices provided to the Commission.

A review of the sample of sales invoices for P&O Perth indicated that customers received credit terms of ■ days. A review of the sample of sales invoices for P&O Sydney indicated that customers received various credit terms of ■, ■ and ■ days. In the absence of more reliable information about the credit terms offered by P&O Perth and P&O Sydney, the Commission has applied credit terms ■ and ■ days respectively for P&O Perth and P&O Sydney at an interest rate of ■ per annum.

Finish	Sales Revenue Adjusted for Credit Terms (\$)	Less Cost of Goods Sold (incl SG&A) (\$)	Profit (Loss) (\$)
Anodised	■	■	■
Mill Finish	■	■	■
Powder Coated	■	■	■
Total	■	■	■
		■	■
		Net Profit (Loss)	■

Table 13 – P&O Perth 2013 profitability of the goods (Confidential Attachment 9)

Finish	Sales Revenue Adjusted for Credit Terms (\$)	Less Cost of Goods Sold (Includes SG&A) (\$)	Profit (Loss) (\$)
Anodised	■	■	■
Mill Finish	■	■	■
Powder Coated	■	■	■
Total	■	■	■
		■	■
		Net Profit (Loss)	■

Table 14 – P&O Sydney 2013 profitability of the goods (Confidential Attachment 9)

On the basis of the figures in above tables, it appears that the sales for both P&O Sydney and P&O Perth of aluminium extrusions imported from China which were

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subject to measures have been sold at a loss. As discussed earlier, P&O purchased aluminium extrusions from [redacted] [exporter] at prices that were equivalent to the ascertained export price for each finish type. Referring to section 1.9, by order of the Federal Court, the AEP has since reduced to a single figure rather than by finish type. An assessment on the impact of this decision on the findings of circumvention activity will be provided in the Final Report to the Parliamentary Secretary.

6 ARMS LENGTH

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable 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;
- in the opinion of the Parliamentary Secretary, 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.

Furthermore, where:

- goods are exported to Australia otherwise than by the importer and are purchased by the importer from the exporter (whether before or after exportation) for a particular price; and
- the Parliamentary Secretary is satisfied that the importer, whether directly or through an associate or associates, sells those goods in Australia (whether in the condition in which they were imported or otherwise) at a loss;

the Parliamentary Secretary may treat the sale of those goods at a loss as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price.

An analysis of the sales of goods purchased by P&O Sydney or P&O Perth from [REDACTED] [exporters] during the inquiry period indicates that sales of aluminium extrusions in the Australian market were sold at a loss.

On the basis that the imported goods have been sold in Australia at a loss, at this stage, it cannot be satisfied that sales between P&O Sydney and P&O Perth of the goods purchased from [REDACTED] [exporter] were arm's length transactions.

7 GENERAL COMMENTS

7.1 Market Conditions

The importers representative's described the trading condition for aluminium extrusions as very difficult by explaining that the market pricing had been driven down by competition throughout the investigation period and the reduction in LME prices generally. The Commission's observations and P&O's detailed description of the market is contained in section 5.6 of this report.

8 RECOMMENDATIONS

From our investigations, the Commission is of the opinion that, for the goods imported by P&O Sydney or P&O Perth from [redacted] and [redacted] [exporter].

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporters;
- the goods purchased by the importer from the exporters were sold in the Australian market at a loss; and,
- the Commission was unable to verify that the purchase of the goods by the importer from the exporter were arm's length transactions.

9 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	listing of all associated costs for 30 selected shipments
Confidential Appendix 2	PO Sydney revised Part B & C – including direct sales
Confidential Appendix 3	PO Perth Revised Part B – Including direct sales
Confidential Attachment 1	P&O Aluminium licence deed
Confidential Attachment 2	source documents for 30 selected shipments
Confidential Attachment 3	matched invoice prices for 30 selected shipments
Confidential Attachment 4	consolidated P&L statement
Confidential Attachment 5	invoices and proof of payment in the form of remittance advices and bank statements
Confidential Attachment 6	market pricing spreadsheet
Confidential Attachment 7	LME Pricing Chart
Confidential Attachment 8	P&O Sydney & P&O Perth import cost analysis
Confidential Attachment 9	P&O Sydney & P&O Perth profitability analysis