



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

Oceanic Aluminium 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

28 May 2014

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ABBREVIATIONS

\$	Australian dollars (also referred to as AUD)
ACBPS	Australian Customs and Border Protection Service
the Act	Customs Act 1901
ADN	Anti-Dumping Notice
CIF	Cost, insurance and freight
Commission	Anti-Dumping Commission
FOB	Free On Board
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&L	Profit and loss
P&O	P&O Aluminium (Sydney & Perth) Pty Ltd
SG&A	Selling, general and administration
WA	Weighted 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 from China.

- 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 Commission's visit to Oceanic was to:

- confirm that Oceanic is the importer of aluminium extrusions attributed to it within the commercial database;
- verify information on imports of aluminium 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;
- identify sales and customers and verify sales volume, selling prices and selling costs; and

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- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

1.3 Meeting details

COMPANY	Oceanic Aluminium Pty Ltd
ABN	74 121 335 635
ADDRESS	Level 1, 50B Slough Avenue, SILVERWATER, NSW 2013
TEL NO	02 9648 5266
FAX NO	02 9648 0770
DATE	18 June 2014

The following were present at various stages of the meetings.

Oceanic Aluminium Pty Ltd	██████████ Director ██████████ Consultant, ██████████
The Commission	Rod Jones – Operations Team 3 Gavin Crooks - Operations Team 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 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*.

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 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.

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

Oceanic was advised that the Commission would prepare a report of the visit 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 Oceanic, 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

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

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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);
- Oceanic Aluminium 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

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 –

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 a major importer. Accordingly, it was not invited 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>

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>

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General direct the Chief Executive Officer of the Australian Customs and Boarder 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 required the rates of dumping and countervailing duty against the applicants, Kam Kiu and PanAsia, to be amended and these changes were applied retrospectively from 27 August 2011.¹¹ The decision also imposed a single ascertained export price for aluminium extrusions exported by PanAsia.

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 [REDACTED] [value]

⁹ ACDN 2011/21

¹⁰ ACDN 2011/31

¹¹ ADN 2013/80

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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

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

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.

Table 2 – Tariff Classifications & Statistical Codes

3 COMPANY DETAILS

3.1 Company Overview

3.1.1 Organisational structure

Oceanic is an Australian-based importer, which specialises in importing aluminium extrusions into Australia. Oceanic is privately owned company and has been operating since 2006.

On 28 May 2014, [REDACTED]. A copy of the announcement was provided to the Commission on the following day. However, a review of the ASIC register does not show [REDACTED] as the beneficial owner of Oceanic.

3.1.2 Functions of the company

Oceanic had operations located in Sydney and Melbourne predominately selling a large range of aluminium extruded products. It also sells plastic products which are used in conjunction with aluminium extrusions.

Sales of aluminium extrusions are predominantly made to a diverse range of Australian companies who produce consumer products such as shower screens, window frames and doors, free standing structures, e.g. fencing, and safety products.

Oceanic imports and sells a range of standard and custom aluminium extrusions, fabricated products and product kits such as aluminium fencing kits. Oceanic undertakes [REDACTED] [other services].

3.1.3 Product Range

The company defines its 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

- awnings
- balustrade
- security mesh.

3.2 Accounting

Oceanic Aluminium operates to a financial year ending 31 December. The company uses MYOB as its main accounting system.

At the time of the verification visit, the company did not have audited financial reports for the 2013 financial year. [REDACTED]

[REDACTED] the 2013 financial year data was removed from the company's accounting systems and transferred off-site.

During the visit, the Commission requested Oceanic to arrange for the accounts to be provided. Following the visit, Oceanic requested further time to provide the documents and was accordingly given until 2 July 2014 to meet the request. On 2 July 2014 Oceanic informed the Commission that [REDACTED] sufficient information had been provided and that the additional information requested, i.e. the audited financial report, was not relevant.

3.3 Relationship with suppliers

In Part A.2 of its importer questionnaire response, Oceanic indicated it sources aluminium extrusions from three Chinese suppliers, [REDACTED]

[REDACTED] [supplier companies].

Aluminium extrusions purchased from [REDACTED] and

[REDACTED] are manufactured by [REDACTED] [manufacturer]. Aluminium extrusions purchased from [REDACTED] is manufactured by [REDACTED]. Both manufacturers are located in China.

Oceanic informed the Commission that it had no relationship with any of its suppliers other than that of a commercial relationship of buyer and seller.

3.4 Relationships with customers

In Part A.1 of the importer questionnaire response, Oceanic indicated that it has over 300 customers of aluminium extrusions.

The sales data provided in Part C of the importer questionnaire response separately identifies [REDACTED]

[REDACTED]
[description of rebates].

Oceanic indicated that it was not related to any of its Australian customers and that sales were made at arms-length and were made on commercial terms. No information was

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identified by the Commission during the verification visit to indicate that Oceanic is related to any of its customers.

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.

The Commission calculated the following volume of Oceanic's imports of the goods subject to measures for the inquiry period:

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

Table 3 –2013 Import Volumes of the goods from China (Confidential Appendix 1)

4.2 Verification of imports

Part B.1 of the importer questionnaire response contained a request to complete a "Cost to import and sell worksheet" in relation to 30 shipments of aluminium extrusion imports selected from the ACBPS import database. The shipments were selected on the basis of the tariff subheading referred to in the dumping notice. In relation to each shipment, Part B.2 of the importer questionnaire response requested Oceanic to provide to the Commission following source documents at the visit:

- Full Import Declaration (FID);
- purchase order;
- contract of sale;
- order confirmation (including online);
- arrangement emails;
- commercial invoice;
- bill of lading / airway bill;
- packing list;
- overseas freight and insurance;
- customs duties;
- landing and wharfage charges;
- freight forwarding fees;
- cartage/delivery fees;
- any other charges between the FOB point and the landed, duty paid into-store point; and
- evidence of payment, which may include letter of credit, bank transfers, receipt, PayPal, EFT, credit card or bank account statements.

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The Commission also provided details of 20 shipments in Part B.3 of the importer questionnaire response. These shipments were identified as having being claimed under a dumping duty exemption type on importation or classified to a tariff subheading which is not subject to the dumping notice. Oceanic was requested to ensure its importer questionnaire response included details that supported the import declarations and why the goods imported were not subject to the dumping notice.

4.2.1 Imports Profile

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.

Goods Description	Quantity (kg)	%
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	

Table 4 - Sample shipment import profile (Confidential Appendix 2)

Following the Federal Court decision, imports of aluminium extrusions no longer needed to be described by finish type since the dumping and countervailing duties were the same regardless of finish. As a result, the [REDACTED] [exporter] invoices [REDACTED]

[REDACTED] [invoice descriptions]. The timing of the change in [REDACTED] coincides with the period after the Federal Court decision which no longer required the calculation of dumping duty by finish type.

Oceanic's response in relation to the 20 shipments referred to in section 4.2 indicated these shipments were for goods described as [REDACTED] [exempt product descriptions]. Oceanic did not elaborate further on the exact nature of the goods by providing any documentation which could confirm the goods were correctly declared.

4.2.2 Cost to import

Prior to the visit, Oceanic completed a cost to import and sell worksheet in relation to 30 shipments which occurred within the investigation period (**Confidential Attachment A1**). The shipments were selected on the basis they were declared on the ACBPS import database to contain aluminium extrusions under the tariff subheading referred to in the dumping notice. The relevant source documents for each shipment were made available during the visit. These documents are contained in **confidential attachment A1**.

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For each shipment the Commission used the source documents to check the detail of the goods contained in each shipment:

- quantity of goods imported and invoice value
- packing list
- terms of sale
- shipment costs
 - bill of lading number, insurance, freight and packaging costs
- Australian importation costs
 - customer brokers fee, port charges
 - delivery costs
 - duties payable

The Commission was able to reconcile the shipment number, quantity, value, price and delivery terms with the data in the import list. All shipments reviewed during the verification visit were completed on a [redacted] [import terms] with credit terms of [redacted] from the date of arrival of the shipment in Australia. All currency values were shown in [redacted] [currency]. It is noted by the Commission that in order to comply with the dumping measures terms, which are FOB cash, the imports were [redacted] in the ACBPS import database.

Copies of invoices for each shipment were provided to the Commission. With the exception of one shipment, all other shipments originated from [redacted] [exporter] invoices issued by [redacted] [exporter] identified the composition of the shipment in terms of extruded aluminium or fabricated components. Aluminium extrusions were further broken down by finish category. The invoice price for each line item was shown in [redacted] [currency]. The figures for weight and price were found to correspond with the ACBPS import database.

Proof of payment

From the source documents provided, the Commission notes that no proof of payment was included for the sample of 30 shipments. As a result it cannot be confirmed if and when the payment was made to the supplier.

4.2.3 Packaging

Packaging costs provided in the cost to import and sell worksheet were evidenced by the provision of commercial invoices from [redacted] [exporter]. Packaging costs were invoiced separately from the invoice for the goods. The packaging invoice contained adequate information to enable the Commission to reconcile the figures back to the container number. The packaging costs were allocated to the goods by weight and were expressed in Australian dollars.

4.2.4 Shipment Costs

The shipment costs section of the cost to import and sell worksheet required the input of the bill of lading number, cost of overseas freight and insurance.

Oceanic provided a bill of lading for each shipment. The details shown on each bill of lading was found to reconcile with the description of the goods on OPAL's commercial invoices. The bill of lading was accompanied by the packing list for the container. The

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packing list identified the goods by Oceanic's part number, category (extrusion or fabricated), tariff code and weight. The bill of lading, packing list and [redacted] [exporter] invoices were found to reconcile with the ACBPS import database.

Cost of overseas freight and insurance was [redacted] [import costs] allocated to the various contents of each shipment by weight.

4.3.5 Australian importations costs

Oceanic provided invoices from the customs broker for each of the selected shipments. These invoices were found to support the figures shown on the cost to import and sell worksheet.

Customs entry fee, brokers fee and port services charges were allocated by weight. The total figures for each type of cost could be identified on the customs broker's invoices and were found to reconcile to each shipment line item by applying the allocation.

Oceanic provided the domestic freight invoices for the shipments which reconciled to the cost to import and sell worksheet. It was noted that delivery of shipments arriving in Melbourne appeared to be a service provided by the customs broker rather than a separate freight provider. The transport costs provided by the broker could be identified on the brokers invoices and were found to reconcile.

4.2.5 Dumping and countervailing duty

During the investigation period, the dumping and countervailing duties applied to the exports of aluminium extrusions by [redacted] [exporter] were altered following the 4 September 2013 decision of the Federal Court. In summary, it was found that the duties on exports from [redacted] [exporter] could not be on the basis of finish. As a result, the duties paid by the importer up to that point were incorrectly calculated using the ascertained export prices by finish, and are now subject to adjustment. The Commission was advised that Oceanic 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.

4.2.7 Importation costs

The Commission calculated the weighted average importation costs for the selected shipments. These calculations are summarised in Table 5 below (expressed in Australian dollars per kilogram).

Cost Item	Weighted average cost per unit (kilogram)
Packaging	[redacted]
Overseas Freight	[redacted]
Insurance	[redacted]
Customs Broker Fees	[redacted]

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Cost Item	Weighted average cost per unit (kilogram)
Australian Port Service Charges	■
Australian Delivery Charges	■
Total	■

Table 5 – Shipment sample importation costs (Confidential Appendix 2)

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

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

Oceanic's response to Part B of the importer questionnaire response indicates that ■ of sales revenue is allocated for SG&A costs. An analysis of the cost to import and sell spreadsheet figures shows that the SG&A costs have been applied to the cost of each shipment.

As outlined in section 5.6, Oceanic has not provided the Commission with a copy of the completed financial statements for 2013. The Commission was, therefore, unable to verify that the allocation rate of ■ is an accurate reflection of the actual SG&A costs incurred for the 2013 financial year. A second issue exists in relation to how Oceanic has applied its SG&A costs. Rather than being derived from the cost of the goods, the SG&A cost should be applied based on sales revenue. This methodology will be reflected in the figures shown in the profitability analysis in section 5.6.

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 ■ [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 ■.

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

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Finish Type	Qty (kg)	Total Cost of Imported Goods	WA Cost to Import \$/kg
Mill			
Powder Coated			
Anodised			
Total			

Table 6 – Cost of imported goods (Confidential Attachment 3)

5 SALES

5.1 General

Oceanic reported sales revenue for all good and services of approximately \$ [REDACTED] during calendar year 2013. This is based on the sales information provided in Part C of Oceanic's importer questionnaire response. The sales data provided by Oceanic corresponds with the investigation period (1 January 2013 to 31 December 2013).

5.2 Sales

Oceanic explained at the visit that it had a very large customer base for its sales of aluminium extrusions. The importer questionnaire sales data shows that Oceanic had almost 400 customers in 2013. The sales data provided by Oceanic included adequate detail to assist with verification purposes. In particular, the data 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.

During the investigation period, Oceanic's major customers aluminium extruded products which were subject to measures were:



The following table summarises Oceanic's sales volume and total revenue (before credit adjustments) of aluminium extrusions subject to measures sourced from China during the investigation period.

Finish	Volume (kg)	Revenue \$AUD	WA Unit Price \$/kg
Mill Finish	[REDACTED]	[REDACTED]	[REDACTED]
Powder Coated	[REDACTED]	[REDACTED]	[REDACTED]
Anodised	[REDACTED]	[REDACTED]	[REDACTED]

Table 7 – 2013 Sales of Aluminium Extrusions from China (Confidential Attachment 4)

The sales data also identified sales of goods which were sourced from [REDACTED] [country]. Sales of aluminium extrusions sourced from [REDACTED] [country] accounted for [REDACTED] of all sales of aluminium extrusions. Imports of aluminium extrusions from [REDACTED] [country] are not currently subject to dumping or countervailing duties.

5.3 Ordering and Sales Process

Oceanic advised at the visit that the prices for aluminium extrusions imported from [REDACTED] [exporter] are based on the London Metal Exchange (LME) pricing. The LME price includes a base metal price and an additional amount for spread. Spread was indicated as being the cost to manufacture.

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Aside from the sample of [redacted] [exporter] invoices, Oceanic did not provide any other documentation in relation to how it arrives at a price for the purchase of aluminium extrusions from China. Oceanic highlighted it was of the view that the LME price over the investigation period was lower than the Ascertained Export Price applied to exports from [redacted] [exporter]. Information provided in a submission lodged by Oceanic on 18 July 2014 appears to support this view. The relevance of the LME price in the context of the inquiry will be further assessed in the Final Report.

Regarding prices offered to domestic customers, Oceanic explained that aluminium extrusions were sold in two primary categories, exclusive and non-exclusive. Exclusive extruded products are those made to a particular specification and are for the exclusive use by the customer who ordered the product. [redacted] [redacted] [treatment of tooling costs]. Exclusive extruded products are specified on engineering drawings and are accompanied with some form of contract or purchase order. However, examples of such documents were not made available at the visit.

The company advised that they had three types 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.

5.4 Verification to source documents

Oceanic's response to Part C of the importer questionnaire required information relating to sales and selling expenses. Oceanic provided a sales report for all sales of goods and services in 2013. The sales report consisted of a listing of approximately 31,000 lines of sales transactions over the investigation period.

At the visit, Oceanic provided copies of commercial invoices for sales relating to 18 invoices which were selected from the questionnaire sales data. Copies of these documents are at **Confidential Attachment 2**. The invoices contained an invoice number, customer name, product part number and description, total quantity, unit price per kilogram and payment terms. The invoices provided were accompanied by receipts and the relevant line from Oceanic's bank account statement to confirm the payment by the customer.

One item in the sample ([redacted]) [invoice number] was a credit note for the return of goods to Oceanic. An explanatory note detailing the reason for the return of the goods was provided.

In addition to the credit note, it was observed that the unit price for a sale relating to Invoice No. [redacted] was unusually low in comparison to the other invoices sampled. Oceanic advised this was an error that occurred when the order was entered into its

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systems. A back order statement showing the correct unit price and the customers purchase order detailing the goods was provided by Oceanic at the visit.

Excluding the above mentioned error and the credit note, the sample invoices accounted for sales revenue of \$ [redacted] aluminium extrusions. None of the invoices included sales of other product types, e.g. [redacted] [product]. The invoices sampled reflected trade with [redacted] customers representing [redacted] lines of sales data. Of the [redacted] items shown on the invoices, [redacted] items were for aluminium extrusions originating from [redacted] [country]. The sampled invoices resulted in a calculated weighted average selling price of aluminium extrusion sourced from China of \$ [redacted] per kilogram (before adjustments for credit terms)

Two issues were identified in relation to the sales data.

Payment terms

The payment terms on the invoice sample appears to indicate that Oceanic consistently offers its customers payment terms of [redacted] days from the statement date. These payment terms were not found to reconcile with the questionnaire sales data.

Product part numbers

The product part number information contained on the invoices was not included on the corresponding line in the questionnaire sales data. Sales invoices and shipment documents included part numbers however Oceanic's stock control systems were not sophisticated enough to provide reporting that could trace a given sales line item back to a shipment of goods from China. Given the lack of reporting data and the quantity of sales data, the Commission was not able to verify the country of origin in the sales listing.

The analysis of the Oceanic's sales data showed that its 2013 sales were mostly comprised of products that were aluminium extrusions which are the subject of the alleged circumvention activity. However due to the absence of part number information on the sales listing and Oceanic's reporting internal systems, it was not possible to verify the country of origin. To this extent, the Commission cannot be certain that the sales listing is representative of all aluminium extrusions which have been imported from China. A comparison between the sales data and a sample of invoices demonstrated that Oceanic's reporting was a reasonable account of sales in terms of the description of the goods sold, customer's name, quantity and invoice value.

5.5 Verification to management accounts

The Commission advised Oceanic prior to the visit that the 2013 completed financial statements would be required for verification purposes. At the visit, Oceanic was again informed of this requirement and in response advised that approval to provide the statement would be required from the new owners of Oceanic.

Oceanic informed the Commission on 2 July 2014 that it would not be providing the requested financial statements.

As the Commission was unable to trace the value of aluminium extrusion sales to the completed financial statements, the Commission could not conclude that the sales data provided is relevant and complete.

5.6 Profitability of sales

The Commission compared the selling prices in Oceanic's sales data with the corresponding full cost to import and sell for the various finish types of aluminium extrusion as shown 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 Oceanic 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. Every customer included in the sample invoices provided by Oceanic received credit terms of [REDACTED] days. In the absence of more reliable information, the Commission has calculated sales revenues on the basis of [REDACTED] day credit terms at [REDACTED] %.

Total cost of goods sold is calculated using the sum of

- the weighted average unit value of the fully absorbed cost to import multiplied by the quantity of goods sold; and,
- SG&A costs associated with each finish type at a rate of [REDACTED] % of revenue.

Finish	Volume (kg)	Sales Revenue (Adj for Credit terms) \$	less Cost of Goods Sold (incl SG&A) \$	Profit (Loss) \$
Mill Finish	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Powder Coated	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Anodised	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
			<i>less rebates</i>	[REDACTED]
		Net Profit Loss		[REDACTED]

Table 8 – Profitability of 2013 sales of Aluminium Extrusions from China (Confidential Attachment 4)

As shown in Table 8, it appears that Oceanic's sales of aluminium extrusions imported from China, which were subject to measures, have been sold at a loss. Although the sales revenue and SG&A costs have not been verified back to the audited financial statements, the Commission considers this to be the most reliable for determining if goods have been sold at loss. Oceanic purchased aluminium extrusions from [REDACTED] [exporter] at prices that were equivalent to the [REDACTED]. 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.

For sales of goods purchased by Oceanic from [redacted] [exporter] and [redacted] [exporter] during the investigation period, the profitability analysis indicates that sales of aluminium extrusions in the Australian market were sold at a loss.

In relation to purchases from [redacted] [exporter] and [redacted] [exporter], in the absence of any proof of payment, it could not be verified that:

- there is any consideration payable other than price; or that
- the price is influenced in Oceanic's favour by a commercial or other relationship between Oceanic and its suppliers from China.

On the basis that Oceanic has not provided sufficient information to satisfy section 269TAA(1A) and the imported goods have been sold in Australia at a loss, at this stage it cannot be satisfied that sales between Oceanic and [redacted] [exporter] and [redacted] [exporter] were arm's length transactions.

7 GENERAL COMMENTS

7.1 Market Conditions

During the visit, Oceanic conceded that some sales of aluminium extrusions imported from China were unprofitable, although it was aiming to remain profitable overall through a combination of the decision to switch supply to [REDACTED] [country], profitable sales of extrusions from China and the refund of duties flowing from the Federal Court decision and subsequent duty assessments. Oceanic explained that the LME price for aluminium was relatively lower than the prices which Oceanic was paying to [REDACTED] [exporter]. Oceanic maintain that the prices paid for goods imported from China are a reflection of the [REDACTED] t. As a result, Oceanic explained that there was no incentive to negotiate a lower price with [REDACTED] [exporter] due the way in which the dumping and countervailing duties were applied, in particular, the variable duty.

For the period of the investigation, Oceanic was of the view that the AEP was set at a price which was higher than the LME price. Oceanic's competitors on the other hand were able to sell goods on the Australian market at the LME prices and import from countries which did not attract dumping and countervailing duties. In an attempt to trade profitably and remain in business, Oceanic sought to align its prices with its competitors for certain customers and certain product lines. This course of action was taken on the basis of Oceanic anticipating a successful outcome from the Federal Court in which it would reverse the decision to impose an AEP by finish type and have only one AEP for all finishes. The AEP now in place is \$[REDACTED]. As noted in section 4.2.5, a recalculation of duty payable based on the new single AEP has resulted in Oceanic receiving a refund on shipments of goods that were subject to a higher AEP.

Oceanic provided three invoices for the sale of aluminium extrusions by one of its competitors. Oceanic calculated that the unit price of the aluminium extrusions was \$3.97 per kilogram. The goods described on each invoice were mill finish, hollow square sections of various wall thickness and outside dimension. The invoices are all dated on the same day and relate to the same customer in April 2014.

Regarding the invoices provided by Oceanic, the Commission makes the following observations:

- the invoices provided are for sales to only one customer;
- the date of the invoices are outside of the investigation period; and,
- the invoices are not representative of a sufficient time frame that assists with establishing a realistic pattern of sales.

8 RECOMMENDATIONS

From our investigations, the Commission is of the opinion that, for the goods imported by Oceanic from [redacted] [exporter] 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

Title	Description
Confidential Appendix 1	Import data
Confidential Appendix 2	Sales route spreadsheet and import cost calculations
Confidential Attachment 1	Source documents for selected import transactions provided by Oceanic
Confidential Attachment 2	Sales invoices
Confidential Attachment 3	Cost to import calculations spreadsheet
Confidential Attachment 4	Profitability analysis spreadsheet