



INVESTIGATION 300

**ALLEGED DUMPING OF
STEEL REINFORCING BARS
EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

IMPORTER VERIFICATION REPORT

Commercial Metals Company 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

October 2015

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ABBREVIATIONS

\$	Australian dollars
ABF	Australian Border Force
AND	Anti-Dumping Notice
AUD	Australian Dollar
CFR	Cost and Freight
China	the People's Republic of China
CMC	Commercial Metals Company Pty Ltd
Commission	Anti-Dumping Commission
Commissioner	the Commissioner of the Anti-Dumping Commission
FOB	Free On Board
GUC	Goods Under Consideration
OneSteel	OneSteel Manufacturing Pty Ltd, the applicant
PAD	Preliminary Affirmative Determination
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry, Innovation and Science
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative expenses
The Act	<i>Customs Act 1901</i>
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)

1 BACKGROUND AND PURPOSE

1.1 Background

On 14 May 2015, OneSteel Manufacturing Pty Ltd (OneSteel) lodged an application requesting that the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary)¹ publish a dumping duty notice in respect of steel reinforcing bar (rebar) exported to Australia from the People's Republic of China (China).

OneSteel provided further information and data in support of its application on 3 June 2015. As a result, the Anti-Dumping Commission (the Commission) restarted the 20 day period for considering the application in accordance with section 269TC(2A) of the Act ².

OneSteel alleges that the Australian industry has suffered material injury caused by rebar exported to Australia from China at dumped prices. The applicant alleges that the industry has been injured through:

- price depression;
- price suppression;
- price undercutting;
- lost sales volume;
- lost market share;
- loss of profits;
- loss of profitability;
- less than full capacity utilisation;
- loss of employment;
- reduction of assets employed in the production of the like goods; and
- reduction of capital investment in the production of the like goods:

The Commissioner of the Anti-Dumping Commission (the Commissioner) after examining the application gave public notice of his decision to initiate this investigation.

Public notification of the initiation of the investigation was made on 1 July 2015 in *The Australian* newspaper and through Anti-Dumping Notice No. 2015/82.³

Following initiation of the investigation, a search of the Australian Border Force's (ABF) import database indicated that Commercial Metals Company Pty Ltd (CMC) had imported rebar from China during the investigation period.

The Commission contacted CMC advising the company of the initiation of the investigation and requesting co-operation with the investigation.

The Commission provided the company with a copy of the importer questionnaire to complete. CMC was then provided with a list of its imports during the investigation period,

¹ On 23 December 2014, the then Minister for Industry and Science delegated his powers and functions under Part XVB of the *Customs Act 1901* to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Department of Industry and Science became the Department of Industry, Innovation and Science. The titles of the Minister and Parliamentary Secretary also changed to the Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

² All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

³ Anti-Dumping Notice No. 2015/82 - Electronic Public Record Document Number 002 on www.adcommission.gov.au

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extracted from the ABF import database, and identified a number of transactions from the list for verification.

CMC completed the importer questionnaire, providing details regarding the company, overseas supplier information, imports and importation costs and sales data, including selling, general and administrative (SG&A) expenses.

1.2 Other Investigations

At the time of drafting this report, there is another investigation (Investigation number 264) into rebar exported to Australia from the Republic of Korea (Korea), Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand (Thailand) and the Republic of Turkey (Turkey).⁴

A Statement of Essential Facts (SEF) was published for Investigation number 264 on 2 September 2015. The Commissioner's final report and recommendation in relation to Investigation number 264, was provided to the Parliamentary Secretary on 19 October 2015.

1.3 Purpose of verification

The Commission has visited CMC's offices five times in the past eighteen months and in every case has found it to be a cooperative importer. The Commission thus decided to conduct a desk top verification of CMC's import transactions, rather than visiting CMC as part of this investigation. The Commission corresponded with CMC for the purpose of:

- confirming that CMC is the importer of rebar attributed to it within the ABF database and obtained information to assist in establishing the identity of the relevant exporter(s);
- verifying information on imports of rebar to assist in the determination of export prices;
- establishing whether the purchases of rebar were arms length transactions;
- establishing post-exportation costs; and
- identifying sales and customers and verifying sales volume, selling prices and selling cost.

1.4 Investigation process and timeframes

The Commission advised CMC of the investigation process and timeframes as follows:

- The investigation period is from 1 July 2014 to 30 June 2015. The injury analysis period is from 1 July 2011 onwards for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation, which fell on 30 August 2015, and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made. The Commission will not make a PAD until (and if) it becomes satisfied that there appears

⁴ Investigation number 264. All public documents for this case are available at <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR264.aspx>

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to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.

- The Statement of Essential Facts (SEF) for the investigation was due to be placed on the public record by 19 October 2015 or such later date as the Parliamentary Secretary allows under section 269ZHI of the Act. The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Parliamentary Secretary, and will invite interested parties to respond, within 20 days, to the issues raised therein. On 12 October 2015, the Parliamentary Secretary approved an extension to the date that the SEF should be published by, to 6 February 2016.
- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Parliamentary Secretary. This final report was due no later than 3 December 2015, however has been extended to 22 March 2016.

1.6 Verification report

The Commission advised CMC that it would prepare a report of its findings from the verification (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

The Commission explained that, in consultation with the company, it would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

2 THE GOODS

2.1 Description

The goods that are the subject of the investigation (the goods) are:

Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.

The goods covered by this application include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating.

Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.

2.2 Tariff classification

The Trade Branch of the Australian Border Force (ABF) confirmed with the Commission that the goods are classified to the following tariff sub-headings:

- 7214.20.00 (statistical code 47) for *other bars and rods of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot extruded, but including those twisted after rolling containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling.*
- 7228.30.90 (statistical code 49 - as of 1 July 2015, statistical code 40) for *other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel.*
- 7213.10.00 (statistical code 42) for *bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel containing indentations, ribs, grooves or other deformations produced during the rolling process; and*
 - *have indentations, ribs, grooves or other deformations produced during the rolling process (reinforcing bars and rods);*
 - *be twisted after rolling.*
- 7227.90.10 (statistical code 69) for *bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel.*
- 7227.90.90 (statistical code 42) for *bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel.*
- 7227.90.90 (statistical code 01) for *bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel.*

The ABF Trade Branch advised that goods imported under tariff subheading 7228.30.90 may also include products other than 'hot rolled deformed rebar'. In such cases product descriptions would be used to determine if products declared under this tariff subheading fit the description of the goods.

Table 1, below, contains tariff information for the goods.

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Product	HS Code	Stat Code	Rate	DCS	DCT
Rebar Straights	72142000	47	5%	Free	Free
Rebar Straights – Alloy	72283090	49	5%	Free	Free
Rebar Coil	72131000	42	5%	Free	Free
Rebar Coil – Other Alloy	72279010	69	5%	Free	Free
Rebar Coil – Other Alloy	72279090	42*	5%	Free	Free
Rebar Coil – Other Alloy	72279090	01**	5%	Free	Free

Table 1: Tariff classification information for the goods

2.3 Australian Standards

The Australian Standard for the goods under consideration is AS/NZS 4671.2001. AS/NZS 4671.2001 specifies the requirements for the chemical composition, mechanical properties and geometrical properties of rebar used in the reinforcement of concrete.

The standard further identifies minimum yield strength levels of 250 MPa, 300 MPa and 500 MPa. The standard also identifies three ductility classes for rebar (low, normal and earthquake).

There is an industry-based product certification scheme operates within Australia. The Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) administers this scheme. Although having an ACRS certification is not obligatory to sell the goods in Australia, ACRS certification ensures that products are produced to comply with Australian standards' requirements, adequate quality control procedures have taken place during manufacturing process and products are supplied by appropriate documentation and markings to provide adequate traceability.

2.4 Chinese Standard

The Chinese domestic standard for steel reinforcing bar is GB 1499.2-2007.

2.5 'Like' goods

CMC has not formed a view about like goods at this stage of the investigation which necessarily requires applying the Commission's like goods framework outlined in the Dumping and Subsidy Manual. As such, CMC is not able to make a statement at this stage as to whether the Australian industry produces like goods to the goods that it has imported during the investigation period.

3 COMPANY DETAILS

3.1 Company background

CMC was established in 1980 as an importer and marketer of long and flat steel products for the domestic market. CMC is a subsidiary of US based Commercial Metals Company (CMC) Ltd, which is publicly listed on the New York stock exchange. The CMC Group operates offices in North America, Europe, Asia and Australasia [REDACTED], with corporate head office in Irving, Texas. CMC operated three divisions across Australia: steel trading, steel distribution and raw materials but sold its distribution business (CMC Distribution), effective [REDACTED] 2015.

3.2 Commercial operations

CMC is the largest marketer of imported steel in Australia and sells product to its customers through its bulk store warehouses in Melbourne, Sydney, Perth, Brisbane [REDACTED] [sales outlets and customers].

CMC uses warehouse facilities at several Australian ports for distribution purposes for delivery and logistics management. CMC competes in the market on [REDACTED]. [REDACTED].

CMC employs some [REDACTED] people in trading and a further [REDACTED] people in CMC Distribution. Given the downturn in the steel markets generally, it has [REDACTED].

3.3 Accounting

CMC advised that its financial year was from October to September each year as its headquarters are based in the United States, and the financial year is similar for the whole group.

3.4 Relationship with suppliers

CMC previously advised that it has imported all of its steel products since 1980 and confirmed that it has no relationship, other than a purely commercial one, with its suppliers as all transactions occur on an arms length basis. It also advised that it does not receive any rebates or discounts from its suppliers and negotiates each purchase as required.

CMC purchased [REDACTED] ([REDACTED]) [name of exporter] from China over the investigation period, although some purchases were from [REDACTED]. The Commission notes that all products are supplied by [REDACTED] and shipped from China. Therefore, the Commission considers [REDACTED] and [REDACTED] as a single entity for the purposes of this investigation.

CMC had previously advised that it had representatives in China who [REDACTED].

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3.5 Relationships with customers

In Part C of the importer questionnaire, the Commission was able to identify CMC's customers.

Its largest customer is [REDACTED]. A small customer ([REDACTED]%) was [REDACTED], a [REDACTED] which has since been sold. CMC confirmed that the sales were made at arms length basis.

4 IMPORTS

4.1 Import volumes

The ABF import database indicated that CMC [REDACTED] ([REDACTED] tonnes or [REDACTED]%) of rebar during the investigation period from China.

The table below shows CMC's suppliers of rebar from:

Supplier	Proportion of CMC's Rebar Imports
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
TOTAL	100.00

Table 2: CMC's rebar suppliers from China

As noted previously, [REDACTED], so effectively, [REDACTED] was the sole supplier of rebar from China to CMC.

At prior visits, CMC has stated that it does not import the goods for stockholding purposes, but only places orders after receiving confirmed orders from its customers. It does however warehouse goods for customers and delivers them as required.

4.2 Ordering process and price

CMC has previously advised the Commission, that it conducts price negotiations with steel mills on a case by case basis. The mills make a price offer for the rebar which is valid for a period of time. CMC then forwards a contract to the steel mills directly, after which the mills confirm the order. Purchases are made from steel mills on an as required basis. The base price for the rebar can fluctuate from month to month depending on the input costs. The purchase price is generally in [REDACTED]. [REDACTED] [orders].

CMC hedges the currency in Australian dollars, and opens a letter of credit within a week. The letter of credit is opened when the contract is in place and drawn when the goods are shipped. Once the order confirmation is made prices cannot be altered. The length of time it takes to freight the rebar to Australia depends on the availability of the mill and of the vessels. Shipping usually takes between 3 and 4 weeks depending on the location of the port of arrival. Shipping may take a further 2 weeks depending on when the order is made. The mills generally pack the rebar at a standard suitable for export.

Orders were generally on a [REDACTED]([REDACTED]) basis.

4.3 Verification

CMC was asked to provide the Commission with the following source documents for ten selected shipments:

- commercial invoices;
- packing lists;
- purchase orders;

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- bills of lading; and
- Customs broker and domestic freight invoices.

These documents are contained in **Confidential Attachment IMP 1**.

For each shipment, the Commission used the source documents to check the importing entity, listed quantity, invoice value, ocean freight and insurance, exchange rate, customs duty, importation costs, expenses and average selling prices in the Part B – cost to import and sell spreadsheet (Part B spreadsheet). Part B spreadsheet is at **Confidential Attachment GEN 1**.

The Commission verified a sample of these documents for proof of payment of the shipment and post exportation costs. The Commission was able to reconcile the shipment number, quantity, value, price and delivery terms for the selected shipments with the data in the import list.

The Commission noted that in all source documents, CMC was identified as the purchaser and that [REDACTED] was the supplier, although for some source documents, [REDACTED], [REDACTED], was also shown as the [REDACTED].

4.3.1 Commercial Invoices

Copies of invoices for each shipment were provided to the Commission. These invoices were used to verify the relevant data provided by CMC, including the importing entity, the goods description, volume and value. A sample of the invoices evidencing payment was also verified to source documents.

4.3.2 Overseas Freight Costs

Overseas freight costs are allocated based on a negotiated rate. The rate varies and is between US\$ [REDACTED] per tonne and US\$ [REDACTED] per tonne, with the majority around US\$ [REDACTED] per tonne.

CMC provided freight documentation for each of the sampled transactions which were used to verify the freight amounts provided in the Part B spreadsheet. The documentation provided included proof of payment, and as such the Commission was satisfied that the amounts shown were correct.

4.3.3 Marine Insurance

Marine insurance costs are allocated to each of the sampled transactions based on the premium rate specified under an annual insurance policy taken out by CMC. A copy of this policy was previously provided by CMC. The methodology used in allocating the insurance premium to each order was [REDACTED] per cent of the invoice price of the import excluding GST in Australian dollars.

The Commission considered the costs allocated in relation to marine insurance to be reasonable.

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4.3.4 Australian Importation costs

In considering the Australian importation costs, the Commission has taken into account customs entry fees, customs brokers' fees, delivery charges, bank interest and credit insurance, credit terms insurance and commissions. With respect to these costs, the following is noted:

- CMC provided invoices from its broker for each of the selected importations which outlined the importation costs shown in the cost to import and sell spreadsheet. The items shown in these invoices were all listed on, and the values reconciled to, the cost to import and sell spreadsheet. These costs comprise a "bulk" fee for the Port service charges. A pro-rata fee calculated by the size of the actual shipment was shown in the cost to import and sell spreadsheet.
- CMC sold goods to its customers on a [REDACTED] ([REDACTED]) basis.
- Credit term interest was a finance cost based on different payment terms.
- [REDACTED] office's services.
- CMC takes out credit insurance for its domestic sales to cover the event of non-payment. A copy of CMC's credit insurance policy was previously provided to the Commission. The credit insurance cost was [REDACTED] per cent of the selling price excluding GST in Australian dollars.

The Commission considered the methodology used by CMC to allocate importation costs as reasonable and reflecting the total Australian importation costs.

The Commission calculated the average costs per tonne for the selected shipments. These calculations are summarised below in Table 2:

Cost	Weighted average cost per unit (tonne) – (AUD/MT)
Overseas freight (US\$)	[REDACTED]
Marine Insurance	[REDACTED]
Customs entry fee, brokers fee, quarantine	[REDACTED]
Australian Delivery Charges	[REDACTED]
Bank Charges	[REDACTED]
Credit Insurance	[REDACTED]
Credit terms interest	[REDACTED]
Commission	[REDACTED]
Selling, general and administrative expenses (based on [REDACTED] per cent of sales revenue)	[REDACTED]

Table 3: Average costs per tonne

These calculations are at **Confidential Appendix 2**.

4.4 Export prices for shipments

Based on data obtained from the ACBPS data base, the Commission calculated the weighted average export price (in AUD) for rebar over the investigation period and this is in Table 3 below.

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Principal Original Country	Supplier Full Name	WA Export price (A\$/t)
China		

Table 4 – Export prices

4.6 Forward Orders

From the response to the importer questionnaire, the Commission noted that the forward orders for the four months period starting from June 2015 detailed in Part B of the importer questionnaire totalled [REDACTED] tonnes. The Commission notes that the volume of forward order shows a [REDACTED] in when it is considered that the total volume of imports were [REDACTED] tonnes between July 2014 and June 2015.

4.7 Who is the importer?

The Commission noted that CMC:

- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading; and
- pays for delivery of the goods to the customer.

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

4.8 Who is the exporter?

The Commission will generally identify the exporter as:

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

Based on the information available, the Commission is satisfied that [REDACTED] is the exporter of rebar to CMC and that [REDACTED] is a [REDACTED] entity.

5 Sales

5.1 General

CMC had previously provided the Commission with a copy of its financial statements which showed revenue for all products was \$[REDACTED] million during 2014. The total invoiced value of rebar sold during the investigation period was \$[REDACTED] million. This represents approximately [REDACTED] per cent of CMC's total revenue.

5.2 Sales

CMC stated that it sells rebar to Australian distributors. The sales data provided by CMC indicated that sales of the goods under consideration were made to [REDACTED] entities during the investigation period.

Table 5 summarises CMC's total sales value and volume for its major customers during the investigation period.

Customer	Sales Value \$	Volume (Mt)	WA Unit Price \$
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Table 5 – CMC Sales data

The above source documents are at **Confidential Attachment IMP1**.

5.3 Sales verification (accuracy)

CMC provided the Commission with a line by line sales list of its sales of rebar for the investigation period.

CMC provided copies of commercial invoices for sales related to the shipments selected during the investigation period. Copies of these documents are at **Confidential Attachment IMP 1**.

The invoice number, customer name, quantity, and amount reconciled with the information in the sales list.

The Commission is satisfied that the sales list provided by CMC was accurate.

5.4 Upwards verification (relevance and completeness)

The Commission did not undertake an upwards verification as such verification had previously been undertaken, most recently for Investigation number 284⁵.

⁵ Investigation number 284. All public documents for this case are available at <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR284.aspx>

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The Commission was previously satisfied that the sales list provided by CMC was a reasonably complete and relevant list of all CMC sales and it has no reason to consider the sales list provided in relation to rebar imported from China, was any different.

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

At Part B of its importer questionnaire response, CMC included SG&A expenses as [REDACTED] per cent of total sales revenue.

The Commission had previously verified CMC's SG&A expenses to be [REDACTED] per cent and was satisfied that it was reasonable to adopt the rate and to apply it for calculating the profitability of each transaction.

5.6 Profitability of sales and selling price

The Commission found that [REDACTED] of the ten shipments were sold at a [REDACTED], with [REDACTED] ranging from \$[REDACTED] per tonne to \$[REDACTED] per tonne, whilst [REDACTED] shipments were sold at a [REDACTED], ranging from [REDACTED] per tonne to [REDACTED] per tonne. The Commission noted that for shipments 2 and 3, that some stock was unsold and for shipments nine and ten, that the invoicing was still incomplete.

The weighted average profit percentage of CMC's shipments was [REDACTED] %.

6 ARMS LENGTH

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

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

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

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

The Commission is satisfied that import transactions between CMC and its suppliers were at arms length in terms of section 269TAA.

7 RECOMMENDATIONS

In relation to the goods imported by CMC, the Commission is of the opinion that:

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

Subject to further inquiries with these exporters, the Commission recommends that the export price for rebar imported by CMC be established under sub section 269TAB(1)(a), using the invoiced price less deductions.

8 APPENDICES AND ATTACHMENTS

Title	Description
Confidential Attachment GEN 1	Spread sheets provided by CMC in response to import questionnaire – Parts B and C
Confidential Attachment IMP 1	Import source documents for selected transactions
Confidential Attachment Sales 1	Sales source documents for selected transactions