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Australian Government
Anti-Dumping Commission

INVESTIGATION 223

**ALLEGED DUMPING OF HOT ROLLED STRUCTURAL STEEL
SECTIONS**

**EXPORTED FROM JAPAN, THE REPUBLIC OF KOREA,
TAIWAN AND THAILAND**

VISIT REPORT - IMPORTER

Commercial Metals Pty Ltd

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

December 2013

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ABBREVIATIONS

\$	Australian dollars
ADN	Australian Dumping Notice
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
CFR	Cost and freight
COGS	Cost of goods sold
Commission	Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
EBIT	Earnings before interest and tax
EDITA	Earnings before interest, tax, depreciation and amortisation
FOB	Free On Board
GAAP	Generally accepted accounting principles
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Minister	the Minister for Industry
USP	Unsuppressed Selling Price

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1 BACKGROUND AND PURPOSE

1.1 Background

On 26 August 2013, OneSteel Manufacturing Pty Ltd (OneSteel) lodged an application requesting that the then-relevant Minister, the Minister for Home Affairs, publish a dumping duty notice in respect of hot rolled structural steel sections (HRS) exported from Japan, the Republic of Korea (Korea), Taiwan and Thailand.

OneSteel provided further information and data in support of its application, the last of which was received on 1 October 2013, restarting the 20 day period for consideration of the application.

OneSteel alleges that the Australian industry has suffered material injury caused by HRS exported to Australia from Japan, Korea, Taiwan and Thailand at dumped prices. OneSteel claims the industry has been injured through:

- price depression;
- price suppression;
- reduced profits and profitability;
- reduced domestic revenues;
- reduced production capacity utilisation;
- reduced employment; and
- reduced attractiveness for reinvestment.

Public notification of the initiation of the investigation was made on 24 October 2013 in *The Australian* newspaper and Anti-Dumping Notice No. 2013/75.

1.2 Purpose of visit

The purpose of the visit was to:

- confirm that Commercial Metals Pty Ltd (CMC) is the importer of hot rolled structural steel sections (HRS) attributed to it within the commercial database and obtain information to assist in establishing the identity of the exporters of this HRS;
- verify information on imports of HRS to assist in the determination of export prices;
- establish whether the purchases of HRS were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for HRS; 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	Commercial Metals Pty Ltd
Date of visit	6 December 2013

The following were present at the meeting.

Commercial Metals Pty Ltd	Darren Hicks – National Marketing Manager (Long products) Tahlia Madden – Business Support
The Commission	Lydia Cooke – Manager – Operations 1 Adam Yacono – Manager – 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 October 2012 to 30 September 2013.
- The injury analysis period is from 1 July 2009 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 (23 December 2013) 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 to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.

This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 11 February 2014 or such later date as the Minister allows under s.269ZHI of *the Customs Act 1901* (the Act).

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

- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Minister.

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This final report is due no later than 28 March 2014, unless an extension to the SEF is approved by the Minister.

1.5 Visit report

We explained to the company that we would prepare a report of our visit (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.

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

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2 THE GOODS

2.1 Description

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

Hot rolled structural steel sections in the following shapes and sizes, whether or not containing alloys:

- universal beams (I sections), of a height greater than 130mm and less than 650mm;
- universal columns and universal bearing piles (H sections), of a height greater than 130mm and less than 650mm;
- channels (U sections and C sections) of a height greater than 130mm and less than 400mm; and
- equal and unequal angles (L sections), with a combined leg length of greater than 200mm.

Sections and/or shapes in the dimensions described above, that have minimal processing, such as cutting, drilling or painting do not exclude the goods from coverage of the application.

Goods excluded from this application are:

- hot rolled 'T' shaped sections, sheet pile sections and hot rolled merchant bar shaped sections, such as rounds, squares, flats, hexagons, sleepers and rails; and
- sections manufactured from welded plate (e.g. welded beams and welded columns).

2.2 Tariff classification

Goods identified as hot rolled non-alloy steel sections as set out in section 2.2.1 are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7216.31.00 statistical code 30 (channels – U and C sections);
- 7216.32.00 statistical code 31 (universal beams – I sections);
- 7216.33.00 statistical code 32 (universal column and universal bearing piles – H sections); and
- 7216.40.00 statistical code 33 (equal and unequal angles – L sections).

For the tariff subheadings outlined above, the general rate of duty is 5% for goods imported from Japan and free for imports from Korea, Taiwan and Thailand.

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The Commission received advice from the Tariff Policy section of the Australian Customs and Border Protection Service (ACBPS), indicating tariff subheading 7216.50.00 may be applicable to C sections, only in circumstances whereby these goods are differentiated by industry members and consumers from U sections. The Commission notes that OneSteel considers these products to be interchangeable and the Commission will seek further clarification on this matter during the course of the investigation.

Hot rolled other alloy steel sections

Goods identified as hot rolled other alloy steel sections, as per the specified shapes and sizes as set out above, are classified to tariff subheading 7228.70.00 in Schedule 3 of the *Customs Tariff Act 1995*. The applicable duty rate for imports from Japan, Korea and Taiwan is 5%, and Thailand is free.

2.3 'Like' goods

CMC explained that the physical characteristics of the imported goods under investigation reflect the same physical characteristics as the domestically produced goods and it considered them to be like goods.

It did note however, that some exporters could produce a wider range of goods. For example, CMC stated that OneSteel generally made products with yield strengths of 300MPa, while [REDACTED] could offer products with yield strengths up to 700MPa.

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. CMC operates [REDACTED] across Australia: [REDACTED]

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

3.1.1 General background

CMC is [REDACTED] steel in Australia and sells product to its customers through offices in Melbourne, Sydney, Perth and Brisbane. The company primarily [REDACTED]

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

The reason for CMC's existence [REDACTED]

CMC estimated that its sales of structural steels accounted for [REDACTED] of company revenue. Of its structural steel sales, it [REDACTED]

3.2 Accounting

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

3.3 Relationship with suppliers

During the investigation period, CMC purchased [REDACTED] HRS [REDACTED] It purchased [REDACTED]

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Two additional suppliers were identified in Customs and Border Protection's import database – [REDACTED] – but CMC explained that the product it purchased from these companies did not fall within the goods description [REDACTED]

CMC indicated that it had no relationship with its suppliers other than a commercial relationship of buyer and seller. Furthermore, CMC indicated that its parent had no ownership or other controlling relationship with these suppliers.

CMC also explained that it does not receive [REDACTED] from its suppliers.

3.4 Relationships with customers

Via part C of the importer questionnaire, we were able to identify CMC's customers. [REDACTED]

We also identified that [REDACTED]

[discussion around arms length nature of sales to certain customers and conclusion that sales appear to be arms length]

4 IMPORTS

4.1 Introduction

Customs and Border Protection’s import database indicated that CMC imported HRS from [REDACTED] as seen below in the table. The volumes in the import database however, include a wide range of product, some of which is outside the goods description for the investigation.

The Commission provided the import listing to CMC, which identified the imports which were the goods under consideration. CMC’s total imports under these tariff classifications and imports identified as the goods under consideration are shown in table 4.1 below.

Country	Supplier	Total Quantity (MT)	GUC Quantity (MT)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Table 4.1 – CMC’s imports of HRS and HRS within the goods description.

CMC advised that its purchases from [REDACTED] which were not the goods. [REDACTED] was its main supplier of the goods under consideration. Its purchases of the goods from [REDACTED] could not supply.

4.2 Ordering process and price

CMC explained it [REDACTED] taking into account scrap prices, iron ore movements and currency changes [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

CMC advised that its main supplier of the goods, [REDACTED] generally shipped orders [REDACTED]. In total [REDACTED]. It advised that HRS is shipped break bulk strapped in bundles where possible of up to three MT. *[discussion regarding order process, pricing and lead times]*

4.3 Terms

CMC's purchases of the goods [REDACTED] *[sales terms]*

[REDACTED] *[payment terms]*

4.4 Verification

Prior to the visit, we selected 13 shipments and asked CMC to prepare a listing of all associated costs for these shipments (import sales listing). At our visit, we asked CMC to provide Customs and Border Protection the following source documents for these shipments:

- commercial invoices;
- packing lists;
- purchase orders;
- bills of lading; and
- Customs broker and domestic freight invoices.

Of the selected shipments, CMC identified three shipments that were not the goods. The remaining 10 shipments were all from [REDACTED]. CMC also identified that certain goods within the remaining shipments were also not the goods.

CMC provided us with the source documents for all 13 shipments (**confidential attachment IMP 1**). We could confirm CMC's claims from these documents that certain imports were not the goods under consideration.

For each shipment we used the source documents provided to check the listed quantity, invoice value, ocean freight [REDACTED], exchange rate, customs duty, importation costs, expenses and average selling prices to the import sales listing, and Customs and Border Protection's import database. We noted that in a few instances, GST costs had been included in the import sales listing and where this had happened we changed these costs to be GST exclusive. The revised sales listing is at **confidential attachment IMP2**.

4.4.1 Bank Charges

CMC identified its bank charges in the sales route exercise which relate to the [REDACTED]. We were informed that [REDACTED] and henceforth the respective charge [REDACTED].

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[redacted] [allocation of bank charges]

4.4.2 Credit Insurance

[redacted] At confidential attachment IMP 3 [redacted] [company specific details on approach to credit risk]

4.4.3 Commission

[redacted] [explanation to overseas policies]

4.4.4 Importation costs

We calculated the average [redacted] expenses for the selected shipments, which are summarised in table 4.4.4 below. As noted above, these importation expenses are in relation to 10 shipments [redacted].

Cost item	Weighted average unit price (AUD/MT)
Ocean freight	[redacted]
[redacted]	[redacted]
Australian importation costs (excluding GST)	[redacted]
Selling, general and administrative costs	[redacted]
[redacted]	[redacted]
Total importation and sales costs	[redacted]

Table 4.4.4 – CMC's importation expenses

The costs in relation to [redacted]

These calculations are at confidential appendix 1 – imports.

4.5 Export prices for shipments

We calculated the weighted average export price for the 10 selected shipments as AU\$ [redacted]. Due to the inclusion of items that were not the goods in Customs and Border

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Protection's import listing, we were unable to calculate a weighted average [REDACTED] export price for the goods under consideration over the investigation period.

4.6 Forward Orders

Via the importer questionnaire, CMC indicated the volume and value of forward orders. These are shown in table 4.6 below:

Company name	Nov-13	Dec-13	Jan-14	Feb-14
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Table 4.6 – CMC's forward orders by month and exporter

CMC advised that at the time of the visit, [REDACTED] Australian market in response to the investigation and the possibility of measures being imposed. It said that as HRS for the Australian market had to be manufactured specifically to the Australian standard, [REDACTED]. Therefore, CMC explained that [REDACTED] made specifically to Australian standards. [discussion regarding forward orders]

Details of CMC's forward orders are included in **confidential appendix 1 – imports**.

4.7 Who is the importer

We noted that CMC:

- is named as the customer on supplier invoices;
 - is named as the consignee on the bill of lading; and
- [REDACTED]

We consider 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.

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Where there is no principal in the country of export the Commission will normally consider the exporter to be the person who gave up responsibility for the goods as described above.

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

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

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

In relation to [REDACTED] upon review of the documents we are satisfied that:

- the commercial invoices identify the supplier;
- the bills of lading identify the supplier as the shipper of the goods; and
- the supplier arranges and pays for the goods [REDACTED] terms of trade; and [REDACTED]

Subject to further enquiries we are satisfied that this entity can be considered the exporter of the goods imported by CMC.

4.8.1 Un-verified exporters

Subject to further enquiries, CMC indicated that [REDACTED] [REDACTED] It is reasonable to consider it would be the exporter.

Additionally, we were informed that [REDACTED] [REDACTED] Depending on the circumstances [REDACTED] [REDACTED] also be an exporter.

These companies were, by chance, not selected as part of the original selected shipments or the selected shipments were not the goods.

5 AUSTRALIAN MARKET

5.1 General

CMC had sales of the goods under consideration of approximately \$ [REDACTED] during the investigation period. This is an annualised figure based on eleven months of sales figures from the [REDACTED].

During the verification visit it became apparent that the sales information supplied with the importer questionnaire included goods that fell outside the scope of the investigation and, due to [REDACTED], excluded one month of the investigation period [REDACTED]. CMC subsequently provided an updated version which identified the goods under consideration. Due to the [REDACTED] CMC provided two separate files for the sales listing over the investigation period, one which covered [REDACTED] and a second which covered [REDACTED] [REDACTED] (these listing are at **confidential appendix 2 - sales**).

5.2 Market conditions

CMC advised us that it considered [REDACTED] in the market. It noted that it [REDACTED] and as a result there was [REDACTED]. It also named [REDACTED] as other major competitors in the market. *[market competitors and price leaders]*

CMC considered that OneSteel and itself has largely separate customer bases. For example, [REDACTED] Other large distributors such as [REDACTED]. They sourced [REDACTED] from OneSteel. *[customer sourcing arrangements]*

5.3 Sales of imported goods

CMC identified its customers in [REDACTED]. Of the [REDACTED] that occurred during the last 11 months of the investigation period were [REDACTED].

During this period approximately [REDACTED] with the remaining sales [REDACTED].

We noted that a small number of sales [REDACTED] and that these sales were listed [REDACTED]. CMC explained that [REDACTED] *[confidential sales details]*

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CMC also included credit notes in the sales listing. CMC explained that credit notes were issued when [redacted] or when [redacted]

If goods were [redacted]
Products that [redacted]
[redacted] *[credit note details]*

5.4 Price and distribution arrangements

As outlined in section 4.2 above, CMC [redacted] taking into account [redacted]

CMC explained that it would [redacted]
[redacted]

CMC stated that it generally sought to [redacted]
[redacted] In isolated
circumstances, however, CMC [redacted]
[redacted]

CMC advised that a [redacted]
[redacted] *[pricing and distribution arrangements]*

5.5 Rebates and discounts

CMC stated [redacted]
[redacted]

5.6 Sales verification (accuracy)

At the visit CMC provided copies of the commercial invoices for sales related to 10 selected shipments of the goods under consideration. CMC provided copies of commercial invoices which provided a description of the goods and the prices paid. Copies of these documents are at **confidential attachment IMP1**.

We were able to reconcile these sales to the sales spreadsheet (**confidential appendix 2 – sales**) and were satisfied that the sales data was accurate.

5.7 Proof of Payment

We received proof of payment for the goods for the invoices examined. We were provided with evidence of payment for all transactions that confirm that CMC has been paid the invoiced amounts. See **confidential attachment IMP 1**.

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5.8 Upwards verification (completeness)

As noted above, CMC provided us with a sales listing which included both goods that were covered by the investigation and goods that fell outside the investigation. This sales listing covered CMC's sales of [REDACTED] (confidential appendix 2- sales). CMC filtered sales listings to identify which were the goods under consideration based on product type and size. We selected the month of August and confirmed on a line-by-line basis that all the goods identified as the goods under consideration were within the relevant size range and that all the goods not selected were outside the relevant size range or were other products.

CMC then provided us with its complete sales listing for a period that included the investigation period (confidential attachment SALES 1). This included sales for both CMC's steel business and its other businesses. For the month of August, we were able to match every line in confidential appendix 2 - sales to the complete sales listing. We examined the other sales recorded in the extended listing and were satisfied that these were not the goods. We noted that the extended sales listing did not record credit notes.

CMC also provided us with a [REDACTED] report for August 2013, which showed the revenue for the month of August and the financial year ending in August. The flash report reported revenue for CMC as a whole as well as its separate divisions. We compared the total revenue in the sales listing for August to the total in the flash report and noted that the sales listing [REDACTED]. However, as noted above, the sales listing did not record any [REDACTED].

We were then able to reconcile the total revenue for the financial year in the [REDACTED] report to the revenue listed in the audited financial accounts (confidential attachment SALES 2). We were therefore satisfied that the sales listing was reasonably complete, accurate and relevant.

Further details regarding the upwards reconciliation for August 2013 is at confidential attachment SALES 3.

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

CMC included in its cost to import and sell spread sheet selling, general and administrative (SG&A) costs of [REDACTED]% of its selling revenue. CMC explained that this was based on its actual SG&A costs from the 2012 financial year for its steel division. CMC included in the importer questionnaire response [REDACTED] report which showed this SG&A cost. We requested to see the SG&A amount for the 2013 financial year and CMC informed us this was [REDACTED].

To support this figure, CMC provided us with a [REDACTED] report for the 2013 financial year which showed a breakdown of revenue, profit and SG&A costs for CMC as a whole and then by the divisions of steel, [REDACTED]. We were able to reconcile the total revenue and SG&A costs of CMC as a whole to the audited financial statements (with a very minor variation).

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We noted that the SG&A amount for 2013 for the steel division was [REDACTED]%. CMC explained that this was made up for the SG&A [REDACTED]

[REDACTED] It explained that allocation of SG&A [REDACTED]

CMC provided a further breakdown [REDACTED]

We consider it is reasonable to use a SG&A amount of [REDACTED]% as this is the actual SG&A cost incurred by CMC in the 2013 financial year.

Documents relating to SG&A are at **confidential attachment SG&A1**.

5.10 Profitability of sales and selling price

Using the above constructed SG&A rate, we found that sales were sold at a profit with a rate of profit of approximately [REDACTED]% on the selected shipments for goods that were sold.

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6 ARMS LENGTH

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

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

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

We reviewed the documentation for the selected shipments for and did not find any evidence, in respect of the purchase of HRS, that:

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

We are satisfied that import transactions between CMC and its supplier [REDACTED] are at arms length in terms of s. 269TAA.

Since the verification did not examine all of CMC's suppliers, we cannot form a view with regard to arm's length nature of those other transactions.

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7 RECOMMENDATIONS

From our investigations, we are of the opinion that, for the goods imported by CMC from [REDACTED]

- 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 arms length transactions.

Subject to further inquiries with these exporters, we recommend that the export price for HRS imported by CMC from [REDACTED] can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the [REDACTED] as required.

We are of the opinion that, for the goods imported by CMC from [REDACTED], the goods have been exported to Australia otherwise than by the importer. However, we do not have sufficient information to determine whether the goods have been purchased from the exporter.

Subject to further inquiries in relation to these shipments, we recommend that the export price for HRS imported by CMC from [REDACTED] could be established under s.269TAB(1)(c) or s.269 TAB(3) of the Customs Act 1901.

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8 APPENDICES AND ATTACHMENTS

Confidential Appendix 1 - Imports	CMC's importation costs and forward orders
Confidential Appendix 2 - Sales	CMC's sales listing
Confidential Attachment IMP1	Source documents for selected shipments
Confidential Attachment IMP2	Revised import sales listing
Confidential Attachment SALES1	Complete sales listing
Confidential Attachment SALES2	Financial statements and August 2013 management report
Confidential Attachment SALES3	Upwards reconciliation for August 2013
Confidential Attachment SGA1	Documents relating to SG&A

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