



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO. 320

ALLEGED DUMPING OF CERTAIN HOLLOW STRUCTURAL SECTIONS EXPORTED FROM INDIA AND THE UNITED ARAB EMIRATES

9 June 2016

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ABBREVIATIONS

\$ or AUD	Australian dollars
ABF	Australian Border Force
ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Ajmal	Ajmal Steel Tubes and Pipes Industries LLC
APT	Australia Pipe and Tube Pty Ltd
Arrium	Arrium Ltd
ATM	Austube Mills Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 320	<i>Consideration Report No. 320</i>
China	People's Republic of China
EBIT	Earnings before interest and tax
FOB	Free on board
Garg	Garg Tubes Limited
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Good Luck	Good Luck Steel Tubes Limited
HDG	Hot dipped galvanised
HRC	Hot rolled coil
HSS	Hollow structural sections
KHK	KHK Scaffolding and Formwork LLC
Korea	People's Republic of Korea
the Manual	Dumping and Subsidies Manual
MISO	Marubeni Itochu Steel Oceania Pty Ltd
Mitsui	Mitsui and Co. (Australia) Ltd
OCOT	Ordinary course of trade
Orrcon	Orrcon Steel Pty Ltd
PAD	Preliminary affirmative determination
PAD Direction	<i>Customs (Preliminary Affirmative Determinations) Direction 2015</i>
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
R&D	Research and development
ROI	Return on investment
SEF	Statement of essential facts
SG&A	Selling, general and administrative
Surya	Surya Global Steel Tubes Ltd

PUBLIC RECORD

Stemcor	Stemcor Australia Pty Ltd
Thailand	Kingdom of Thailand
UAE	United Arab Emirates
Utkarsh	Utkarsh Tubes & Pipes Ltd
UTP	Universal Tubes and Plastic Industries Limited, KHK Scaffolding and Formwork LLC and Universal Tube and Pipe Industries LLC
UTP Australia	Winston Scaffolding and UTP Australia
UTP DIP	Universal Tube and Pipe Industries LLC
UTP JA	Universal Tubes and Plastic Industries Limited (Jebel Ali branch)
Vishal	Vishal Pipes Limited
WTO	World Trade Organisation

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This Statement of Essential Facts (SEF) Number 320 has been prepared in response to an application by Austube Mills Pty Ltd (ATM) for the publication of a dumping duty notice in respect of certain hollow structural sections (HSS) exported to Australia from India and the United Arab Emirates (UAE).

ATM alleges that it has suffered material injury caused by HSS exported to Australia from India and the UAE at dumped prices.

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to terminate the investigation, subject to any submissions received in response to this SEF.

1.2 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901*¹ (the Act) describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under subsection 269TB(1).

1.2.1 Application

ATM alleges that the Australian industry has suffered material injury caused by exports of HSS to Australia from India and the UAE at dumped prices.

Having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of HSS from India and the UAE on 22 December 2015. Public notification of initiation of the investigation was also made on 22 December 2015.

Consideration Report No. 320 (CON 320) and Anti-Dumping Notice (ADN) No. 2015/154 provide further details relating to the initiation of the investigation and are available on the Anti-Dumping Commission's (the Commission) website at www.adcommission.gov.au.²

1.2.2 Preliminary affirmative determination

In accordance with section 269TD, the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice, or if satisfied that it appears that there will be sufficient grounds subsequent to the importation of the goods into Australia.

The Commissioner, after having regard to the application, submissions and other relevant information, was satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of HSS exported to Australia from India and the UAE.

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

² Case 320 Public Record Item No.2

As a result, the Commissioner made a PAD on 22 February 2016.³ ADN 2016/18⁴ provides details of the decision and is available on the public record.⁵

Following the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of interim dumping duty that may become payable in respect of HSS exported to Australia from India and the UAE, entered for home consumption on or after 24 February 2016.

1.2.3 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)⁶ allows under subsection 269ZHI(3), place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary in relation to the application.⁷

The SEF was originally due to be placed on the public record by 10 April 2016. However, the Commissioner was granted a 60 day extension by the Parliamentary Secretary. The Commissioner is now required to place the SEF on the public record by 9 June 2016.⁸

1.2.4 Final report

The Commissioner's final report and recommendations in relation to this investigation must be provided to the Parliamentary Secretary on or before 24 July 2016,⁹ unless the investigation is terminated earlier.

1.3 Findings and conclusions

The Commissioner's findings and conclusions in this SEF are based on available information at this stage of the investigation. A summary is provided below and there is greater detail in the remainder of this report.

1.3.1 The goods and like goods (Chapter 3)

The Commissioner considers that locally produced HSS are 'like' to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods, which comprises at least one Australian producer, ATM. The Commission also identified two other Australian producers of HSS, Orrcon Steel Pty Ltd (Orrcon) and Australian Pipe and Tube Pty Ltd (APT).

³ Subsection 269TD(1)

⁴ Case 320 public record Item No.2

⁵ An electronic version of the public record is available at www.adcommission.gov.au

⁶ On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

⁷ Subsection 269TDAA(1)

⁸ Further details are in ADN 2016/37.

⁹ Under section 269TEA

1.3.2 Australian market (Chapter 4)

The Australian HSS market is supplied from local production by ATM, Orrcon and APT, and by imports from several countries, including India and the UAE, the major country being the People's Republic of China (China).

1.3.3 Dumping assessment (Chapter 5)

The Commission's preliminary assessment of dumping margins is set out in Table 1.

Country	Exporter	Dumping Margin
India	Garg Tubes Limited	-11.6%
	Good Luck Steel Tubes Limited	5.1%
	Surya Global Steel Tubes Ltd	0.9%
	Utkarsh Tubes & Pipes Ltd	1.0%
	Uncooperative and All Other Exporters	5.7%
UAE	Ajmal Steel Tubes and Pipes Industries LLC	2.7%
	Universal Tubes and Plastic Industries Limited; KHK Scaffolding and Formwork LLC; and Universal Tube and Pipe Industries LLC	4.8%
	Uncooperative and All Other Exporters	4.8%

Table 1: Dumping margins

1.3.4 Economic condition of the Australian industry (Chapter 6)

The Commissioner considers that the Australian industry has experienced injury in the forms of:

- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced revenue;
- return on investment;
- reduced employment numbers; and
- reduced capacity.

1.3.5 Causation assessment (Chapter 7)

The Commissioner is not satisfied that the Australian industry has suffered material injury as a result of dumped exports of HSS from India and the UAE.

1.3.6 Proposal to terminate (Chapter 8)

Section 269TDA outlines when the Commissioner must terminate an investigation.

Based on the findings in this SEF, and subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation:

- in so far as it relates to HSS exported by Garg Tubes Limited (Garg) from India in accordance with subsection 269TDA(1)(b) on the basis that no evidence was found that dumping had occurred;
- in so far as it relates to HSS exported by Surya Global Steel Tubes Ltd (Surya) and Utkarsh Tubes & Pipes Ltd (Utkarsh) from India in accordance with subsection 269TDA(1)(b) on the basis that the dumping margins were found to be negligible; and
- as it relates to all other exporters of HSS exported from India and the UAE in accordance with subsection 269TDA(13) on the basis that the injury to the Australian industry caused by the dumped goods the subject of the application exported to Australia from each of India and UAE is negligible.

2 BACKGROUND

2.1 Initiation

On 12 November 2015, ATM lodged an application under subsection 269TB(1) requesting that the Parliamentary Secretary publish a dumping duty notice in respect of HSS exported to Australia from India and the UAE.

ATM alleges that the Australian industry has suffered material injury caused by exports of HSS to Australia from India and the UAE at dumped prices. ATM alleges that the industry has been injured through:

- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced return on investment;
- reduced employment;
- reduced capacity;
- write-down of goodwill associated with the HSS business;
- reduced capital expenditure;
- reduced research and development (R&D) expenditure;
- reduced attractiveness to reinvest; and
- reduced capacity utilisation.

Having received further information on 30 November 2015¹⁰ from ATM and having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of HSS from India and the UAE on 22 December 2015. Public notification of initiation of the investigation was also made on 22 December 2015.

ADN No. 2015/154 provides further details relating to the initiation of the investigation and is available on the Commission's website at www.adcommission.gov.au.

In respect of the investigation:

- the investigation period¹¹ for the purpose of assessing dumping is 1 October 2014 to 30 September 2015; and
- the injury analysis period is from 1 July 2011. The purpose of the injury period is to allow the Commission to identify and examine trends in the market which in turn assist the Commission in its examination of whether material injury has occurred over the investigation period.

2.2 Previous investigations

Several investigations (as well as reinvestigations, reviews and inquiries) have been conducted into HSS and specific sub-categories of the goods exported from various countries over a number of years. The most recent are outlined below:

¹⁰ In accordance with subsection 269TC(2A), the application was taken to have been lodged and received when the further information was received on 30 November 2016.

¹¹ Subsection 269T(1)

Investigation No. 177 – Dumping and countervailing investigation for HSS exported to Australia from China, the Republic of Korea (Korea), Malaysia, Taiwan and the Kingdom of Thailand (Thailand). A dumping duty notice in respect of goods exported from China, Korea, Malaysia and Taiwan and a countervailing duty notice in respect of goods exported from China was published on 3 July 2012. Australian Customs Dumping Notice (ACDN) No. 2012/31 provides further details of the findings. The investigation was terminated in relation to Thailand and certain exporters from China (ACDN Nos.2012/25 and 2012/26 refer).

Investigation No. 254 – HSS exported to Australia from Thailand. A dumping duty notice in respect of goods exported from Thailand was published on 20 August 2015 (ADN No. 2015/102 refers).

Review of Measures No. 266 – Review of measures (dumping) applying to HSS exported to Australia from Korea by Kukje Steel Co Ltd (Kukje Steel) initiated on 30 September 2014. On 15 May 2015, the Parliamentary Secretary published the decision to alter the dumping duty notice as it applies to Kukje Steel (ADN No. 2015/61 refers).

Review of Measures No. 267 – Review of measures applying to HSS exported to Australia from China by Tianjin Youfa Steel Pipe Co Ltd (Tianjin Youfa) initiated on 30 September 2014. On 15 July 2015, the Parliamentary Secretary published the decision to alter the dumping duty notice and countervailing duty notice as they apply to Tianjin Youfa (ADN No. 2015/77 refers).

Review of Measures No. 285 – Review of measures (dumping and countervailing) in relation to HSS exported to Australia from China by Dalian Steelforce Hi Tech Co Ltd initiated on 9 April 2015 (ADN No. 2015/51 refers). The final report was provided to the Parliamentary Secretary and the outcome is currently pending.

Anti-Circumvention Inquiry No. 291 – Anti-circumvention inquiry in relation to slightly modified goods exported to Australia from China, Korea and Malaysia was initiated on 11 May 2015 (ADN No. 2015/58 refers). On 17 March 2016, the Parliamentary Secretary published a decision to alter the dumping duty notice and countervailing duty notice as it applies to exports of HSS from China and Malaysia (ADN No. 2016/24 refers).

Exemption Inquiry EX0042 – Exemption inquiry initiated on 22 July 2015 in relation to HSS imported from China, Korea, Malaysia and Taiwan by Hi-Vis Signs and Safety under Tariff Concession Order TC 9508551. The exemption inquiry is currently in progress.

2.3 Responding to this SEF

This SEF sets out the facts on which the Commissioner proposes to terminate the investigation. The SEF informs interested parties of the facts established to date and allows them to make submissions in response. It is important to note that this SEF may not represent the final views of the Commissioner.

In making recommendations in a final report to the Parliamentary Secretary, the Commissioner must have regard to submissions received in response to the SEF within

20 days of the SEF being placed on the public record.¹² Responses to this SEF should be provided to the Commissioner no later than 29 June 2016.

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after 29 June 2016, if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the final report to the Parliamentary Secretary if the investigation is not terminated earlier.¹³

The final report, if the investigation is not terminated earlier, will set out the Commissioner's findings of fact in relation to the investigation and recommend whether a dumping duty notice should be published, and the extent of any interim duties that are, or should be, payable.

Submissions should preferably be emailed to operations3@adcommission.gov.au.

Alternatively, submissions may be sent to fax number +61 3 8539 2499, or posted to:

The Director - Operations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available at www.adcommission.gov.au.

2.4 Submissions received from interested parties

The Commission has received 16 submissions from interested parties prior to publication of this SEF. These submissions have been considered by the Commissioner in reaching the conclusions contained within this SEF. The submissions received are listed in **Appendix 1**. As mentioned in sections 3.5 and 5.6.2, the Commissioner will have further regard to specific matters raised in recent submissions following publication of this SEF.

2.5 Public record

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available in hard copy by request in Melbourne or online at www.adcommission.gov.au. Documents on the public record should be read in conjunction with this SEF.

¹² Subsection 269TEA(3)(a)(iv)

¹³ Subsection 269TEA(4)

3 THE GOODS AND LIKE GOODS

3.1 Findings

The Commissioner considers that locally produced HSS are 'like' to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods, which comprises three Australian producers, ATM, Orrcon and APT.

3.2 Legislative and policy framework

Subsection 269TC(1) provides that the Commissioner shall reject an application for a dumping duty notice, *inter alia*, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that there is an Australian industry producing like goods to the goods the subject of the application.

In making this recommendation, the Commissioner first determines whether the goods produced by the Australian industry are 'like' to the imported goods. Subsection 269T(1) defines like goods as:

Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

An Australian industry can apply for relief from injury caused by dumped imports even if the goods it produces are not identical to those imported. However, the Australian industry must produce goods that are 'like' to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.3 The goods under consideration

The goods the subject of the investigation are:

"Certain electric resistance welded pipe and tube made of steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes, whether or not including alloys. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the

goods include pre-galvanised, hot-dipped galvanised (HDG), and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21 mm up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 950.0 mm. CHS with other than plain ends (such as threaded, swaged and shouldered) are also included within the goods coverage.”

The goods covered by the application include all electric resistance welded pipe and tube made of steel meeting the above description of the goods (and exclusions), regardless of whether or not the pipe or tube meets a specific structural standard or is used in structural applications.

Goods excluded from this application include:

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

3.4 Tariff classification

At the initiation of this investigation, ADN 2015/154 stated that the goods are typically classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*

Tariff code	Statistical code(s)	Unit	Description	Duty rate
7306.30.00	31, 32, 33, 34, 35, 36, 37.	Tonnes	Other welded, of circular cross-section, of iron of non-alloy steel	5% DCS: 4% ¹⁴ DCT: 5% ¹⁵
7306.50.00	45	Tonnes	Other welded, of circular cross-section, of other alloy steel	5% DCS: 4% DCT: 5%
7306.61.00	21, 22, 25, 90.	Tonnes	Square or rectangular cross-section of iron or non-alloy steel	5% DCS: 4% DCT: 5%
7306.69.00	10	Tonnes	Other non-circular cross-section	5% DCS: 4% DCT: 5%

¹⁴ ‘DCS’ denotes the rate for countries and places listed in Part 4 of Schedule 1 of the *Customs Tariff Act 1995*.

¹⁵ ‘DCT’ denotes the rate for Hong Kong, the Republic of Korea, Singapore and Taiwan.

Tariff code	Statistical code(s)	Unit	Description	Duty rate
7306.90.00	12	Tonnes	Other	5% DCS: 4% DCT: 5%

3.5 Submissions in relation to the tariff classifications

On 12 January 2016, Firequip Pty Ltd¹⁶, an end user, submitted that pipe from China and Korea is being misrepresented in order to avoid dumping duties. In particular, it was claimed that pipe is being classified for oil and gas applications, only to be sold in Australia for fire applications.

On 30 May 2016, ATM submitted¹⁷ that certain models meeting the goods description are entering the Australian market under tariff codes not initially identified in the application. ATM claim that HSS supplied into the Australian market is either being dual specified to, or misrepresented as complying with, certain standards so that it can be imported using different tariff codes to avoid dumping duties. ATM refers specifically to 'line pipe' and 'casting pipe'. ATM suggest that, should measures be applied, and the relevant tariff codes are not included in the duty notice, there is a significant risk that importers from the India and UAE may declare the goods under certain tariff subheadings to evade the measures imposed.

The Commissioner has been unable to fully assess the above submissions, as to do so would prevent the timely preparation of the SEF. Further consideration will be given to the issues raised following publication of the SEF.

3.6 The Australian industry

The Commissioner must be satisfied that the "like" goods are in fact produced in Australia. Subsection 269T(2) provides that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Subsection 269T(3) provides that in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

The Commission visited ATM's Newcastle facility to examine the manufacturing processes and to verify the claims in the application. The Commission has found that ATM undertakes a substantial process of manufacture in producing HSS in Australia and, as the HSS is manufactured in Australia, there is an Australian industry producing like goods.

Further information regarding ATM's production processes and product range is available in ATM's verification report on the public record.¹⁸

¹⁶ Case No.320 Public Record Item No.6

¹⁷ Case No.320 Public Record Item No.31

¹⁸ Case No.320 Public Record Item No.27

3.7 Whether ATM represents a sufficient part of the Australian industry?

The application included ATM's production volumes and estimates of production volumes for Orrcon and APT for the year ending 30 September 2015. As stated in CON 320, ATM's estimates for Orrcon and APT were broadly consistent with data from the recent investigation into HSS from Thailand (Investigation 254). Neither Orrcon nor APT were a party to the application and the application contained no indication of whether Orrcon or APT supported or opposed the application. On the basis of ATM's reported production volume and estimates for Orrcon and APT, the Commissioner was satisfied that ATM represented a sufficient part of the Australian industry in accordance with the requirements of subsections 269TB(6)(a) and 269TB(6)(b).

In its 21 May 2016 submission, Surya questioned whether ATM represented a sufficient part of the Australian industry.¹⁹ Surya did not provide any evidence to disprove the Commissioner's finding in CON 320.

It is noted that, upon initiating this investigation, the Commission invited Orrcon and APT to participate in the investigation and received no response. As a result, the Commission was unable to verify information relating to these companies.

On the basis of the information available, the Commissioner remains satisfied that ATM represents a sufficient part of the Australian industry in accordance with the requirements of subsections 269TB(6)(a) and 269TB(6)(b).

3.8 Submissions received in relation to the goods and like goods

On 21 May 2016, Surya, an exporter, submitted that HDG pipes should be excluded from the scope of the goods under consideration (GUC).²⁰ Specifically, Surya state that ATM no longer operates HDG facilities and that ATM's pre-galvanised HSS is not a 'like good'. As outlined at section 7.9.1, UTP Australia and Marubeni Itochu Steel Oceania Pty Ltd (MISO) made similar claims.

The Commission has addressed this issue in past investigations. For example in REP 254, it is stated that:

The Commission reviewed evidence provided by ATM together with ATM's operational capabilities table. The Commission considers that ATM manufactures products that are substitutable and in direct competition with HDG pipes. As a result, the Commission is of the view that ATM's Duragal® and Duragal Plus® are like HDG pipes.

Duragal® and Duragal Plus® form part of ATM's range of pre-galvanised HSS products. Noting that Surya did not provide any evidence to contradict past findings, the Commissioner remains satisfied that locally produced HSS are 'like' to the goods the subject of the application and is satisfied that there is an Australian industry producing those like goods.

¹⁹ Case 320, Public Record No. 31

²⁰ *Ibid*

3.9 Commissioner's assessment – like goods

The Commissioner considers that the ATM produces goods that are 'like' to the goods under consideration for the following reasons:

- the primary physical characteristics of the goods and locally produced goods are similar;
- the goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- the goods and locally produced goods are functionally alike as they have a similar range of end-uses; and
- the goods and locally produced goods are manufactured in a similar manner.

Further details on the Commissioner's assessment of like goods can be found in CON 320, which has not changed.²¹

Having regard to the above, the Commissioner is satisfied that the Australian industry produces 'like' goods to the goods the subject of the application, as defined in subsection 269T(1).

The Commissioner is satisfied that there is an Australian industry in respect of 'like goods' in accordance with subsection 269TC(1).

²¹ Case No.320 Public Record Item No.2

4 AUSTRALIAN MARKET

4.1 Findings

The Commissioner finds that the Australian market for HSS is supplied by the Australian industry and imports from a number of countries, including India and the UAE, but with the largest being China. The Commission estimates that the size of the Australian market during the investigation period was approximately 456,000 tonnes.

4.2 Austube Mills

The Commissioner has had regard to the information verified at the visit to ATM, as well as the matters discussed in the visit report, in preparing this SEF.

The Commissioner is satisfied that ATM competes with importers of HSS in all market segments and in all states and territories in Australia.

4.3 Importers

Following the initiation of this investigation, the Commission identified the importers of HSS from India and the UAE using the Australian Border Force's (ABF) import database. Based on individual import volumes, the following five importers were considered to be 'major' importers, accounting for 91 per cent of imports of HSS from India and the UAE during the investigation period:

- Winston Scaffolding and UTP Australia (UTP Australia);
- Stemcor Australia Pty Ltd (Stemcor);
- OneSteel Trading Pty Limited;
- Mitsui and Co. (Australia) Ltd (Mitsui); and
- MISO.

The Commission sent four of the above importers an importer questionnaire and with the exception of Mitsui, received a response in a timely manner. Following the initiation of the investigation, Mitsui informed the Commission that it did not wish to participate in the investigation. OneSteel Trading Pty Ltd was also notified of the investigation however have not participated.

The Commission undertook on-site visits to UTP Australia and MISO and verified the data supplied by those companies in terms of its relevance, completeness and accuracy. The importer verification reports are published on the public record.²²

The Commission decided not to conduct an on-site verification of Stemcor's data. However, Stemcor cooperated with the investigation and provided its internal records and source documents for its import and sales transactions. The Commission has not prepared a verification report for Stemcor. However, using the data provided, the Commission was able to establish proof of payment by the importer to the exporter and that sales to the importer's Australian customer were profitable. As a result, the Commission is satisfied that exports to Stemcor were arms length transactions.

²² Winston Scaffolding Importer Visit Report and MISO Importer Visit Report Case No.320 Public Record Item Nos 24 and 26

4.4 Market distribution

The Australian HSS market is supplied by ATM, Orrcon and APT and imported goods.

In addition to India and the UAE, the Commission identified Thailand, China, Korea, Malaysia, Japan, India and Taiwan as the main sources of import supply. Anti-dumping measures currently apply to the goods exported from China, Korea, Malaysia, Taiwan and Thailand. Other sources of import supply include Vietnam, South Africa and New Zealand.

Imports of HSS remain predominately from China which accounted for approximately 25 per cent of all imports of HSS during the investigation period. Import volumes from India, UAE and Thailand were found to be similar and are collectively approximately 40 per cent of total imported volume.

4.5 Demand variability

ATM cite seasonal factors such as the December and January holiday period in the construction industry and end of financial year purchases by the rural sector as being influential in demand for HSS. ATM also cited recent growth in the mining sector as a further source of demand for HSS. As noted in section 4.6, the HSS market contracted in the 12 month period ending 30 September 2015. ATM has attributed this to a decline in activity in the engineering and construction sectors which account for approximately 30 per cent of end use applications.

4.6 Market size

The Commission has relied on data from the ABF import database, ATM's sales volumes, and its estimate of the sale volumes of other HSS produced in Australia, as well as verified exporter sales data to estimate the size of the Australian market for HSS. Figure 1 below summarises the size of the Australian HSS market for each 12 month period ending 30 September.²³

The Commission's estimates of import volumes obtained from the ABF import database is based on the following criteria:

- relevant tariff classifications and statistical codes;
- goods description to exclude import transactions that appeared not to be the goods under consideration; and,
- an FOB price per tonne range of \$500 to \$2,000 AUD in order to exclude outlying data.

²³ All years in Figure 1, and subsequent figures, align with the investigation period, e.g. years spanning October to September.

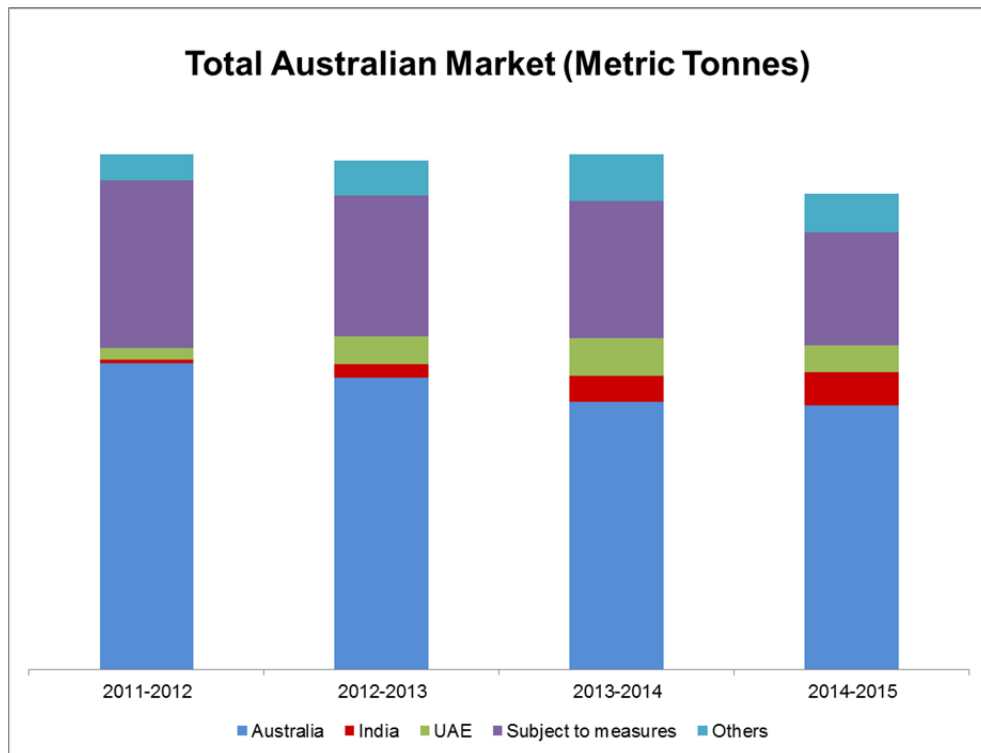


Figure 1: Australian market for HSS – Injury period

The Commission's assessment of the Australian market for HSS reveals that the Australian market contracted in the investigation period.²⁴

²⁴ The Commission's market analysis for the investigation into dumped HSS from Thailand in *Final Report 254* shows variations when compared to the trend shown in Figure 1. The data relied on for this report contains one additional tariff classification which was not examined in REP 254. ATM's sales volumes in Figure 1 include both self-made HSS and imported HSS.

5 DUMPING INVESTIGATION

5.1 Preliminary finding

The Commissioner has found that:

- with the exception of Garg, HSS exported to Australia from India and the UAE during the investigation period were dumped;
- the dumping margins for Surya and Utkarsh were negligible;
- The volume of dumped goods from India and UAE were not negligible.

The preliminary dumping margins are summarised in the Table 2 below.

Country	Exporter	Dumping Margin
India	Garg Tubes Limited	-11.6%
	Good Luck Steel Tubes Limited	5.1%
	Surya Global Steel Tubes Ltd	0.9%
	Utkarsh Tubes & Pipes Ltd	1.0%
	Uncooperative and All Other Exporters	5.7%
UAE	Ajmal Steel Tubes and Pipes Industries LLC	2.7%
	Universal Tubes and Plastic Industries Limited; KHK Scaffolding and Formwork LLC; and Universal Tube and Pipe Industries LLC	4.8%
	Uncooperative and All Other Exporters	4.8%

Table 2: Preliminary dumping margins

5.2 Introduction and legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Dumping margins are determined under section 269TACB. For all dumping margins calculated for the purposes of Table 2, the Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

5.3 Cooperative exporters

Subsection 269T(1) provides that, in relation to a dumping investigation, an exporter is a 'cooperative exporter' where the exporter's exports were examined as part of the investigation and the exporter was not an 'uncooperative exporter'. At the commencement of the investigation, the Commission contacted all known exporters of the goods and each identified supplier of the goods within the relevant tariff subheadings for HSS as identified in the ABF's import database and invited them to complete an exporter questionnaire.

The Commission received completed exporter questionnaire responses from the following exporters:

- Garg;
- Good Luck Steel Tubes Limited (Good Luck);
- Surya;
- Utkarsh;
- Ajmal Steel Tubes and Pipes Industries LLC (Ajmal);
- Universal Tubes and Plastic Industries Limited (UTP JA), KHK Scaffolding and Formwork LLC (KHK) and Universal Tube and Pipe Industries LLC (UTP DIP) (collectively referred to in this report as UTP); and
- Vishal Pipes Limited (Vishal).

The Commission undertook verification visits to Garg, Surya, Utkarsh and UTP. Good Luck and Ajmal were not visited, however the Commission analysed the data submitted by each company and is satisfied that the data is reasonably accurate, relevant and complete. This data was used to calculate dumping margins.

With the exception of Vishal, the above exporters were considered to be cooperative exporters.

5.4 Uncooperative exporters

Subsection 269T(1) provides that, in relation to a dumping investigation, an exporter is an 'uncooperative exporter', where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation, within a period the Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

As noted in the PAD for this investigation, pursuant to subsection 8(b) of the *Customs (Extensions of Time and Non-cooperation) Direction 2015*, the Commissioner determined all exporters from the UAE and India who did not provide a response to the exporter questionnaire, or request a longer period to provide a response within the legislated period, to be uncooperative exporters on the basis that no relevant information was provided in a reasonable period.

Of the seven exporter questionnaire responses received by the Commission, Vishal was considered uncooperative on the basis that its response contained major deficiencies which were not rectified through the provision of further time granted by the Commissioner. The information contained in Vishal's response was not complete, relevant and accurate, and as such it was considered unverifiable. On 15 February 2016,

Vishal was informed that it was considered to be an uncooperative exporter for the purposes of this investigation.²⁵

For uncooperative and all other exporters, given that these exporters have not provided relevant information via a response to the exporter questionnaire, the Commissioner will use all relevant information and reasonable assumptions to calculate dumping margins.

5.5 Model matching

For each exporter, the Commission applied model matching criteria based on a combination of the following characteristics:

- finish (black, galvanised or painted);
- shape (circular, square or rectangular);
- nominal bore;
- thickness;
- length;
- grade; and
- end type (e.g. plain, screwed or grooved etc.).

The Commission applied the most appropriate criteria depending on the specific circumstances of each exporter.

5.6 Dumping assessment – UTP from UAE

5.6.1 Verification

UTP provided a joint response to the Commission's exporter questionnaire, and subsequently the Commission conducted an in-country visit to UTP during March 2016 to verify the information disclosed in its exporter questionnaire.

The verification team toured the UTP JA facility and confirmed that UTP was the producer of the goods under consideration.

A detailed report covering the visit findings is available on the public record.²⁶

5.6.2 Treatment of UTP as a single entity

In calculating UTP's dumping margin, the Commission had regard to the circumstances of the manufacture and export of HSS from UTP JA, UTP DIP and KHK and considered it appropriate to collapse the three entities into a single entity. Where entities are 'collapsed', the actions of one member of the entity are taken to represent the actions of the whole.

The Commission's reasons for doing so are set out in section 3.3 of UTP's visit report. In summary, it was found that the three companies could harmonise their commercial activities, given the common ownership by Taurani Holdings. Further reasoning included that:

- a single exporter questionnaire was submitted;

²⁵ Case No.320 Public Record Item No.14

²⁶ Case No.320 Public Record Item No.29

- during the verification visit, information and data was provided by UTP JA on behalf of UTP DIP and KHK;
- UTP JA and UTP DIP shared a sales team; and
- other collaborative production arrangements between the three entities.

The Commission consolidated the sales and cost information of UTP JA, UTP DIP and KHK and calculated a weighted average export price, normal value and dumping margin for the collapsed entity, UTP.

Submission by UTP

Following its verification visit UTP provided further context regarding the operation and management of its entities.²⁷ UTP stated that each of its entities:

- focus on the manufacture and selling of particular products with only slight overlap;
- are separate legal entities operating as individual cost and profit centres with discrete audited accounts and general managers;
- are located within different jurisdictions and governed by discrete authorities;
- incur different costs; and
- submitted separate exporter questionnaire appendices.

UTP disagreed with:

- the Commission's approach to calculating a single dumping margin, and justification for doing so, being the reference to WTO Panel's findings in Korea – *Anti-dumping Duties on Imports of Certain Paper from Indonesia* citing that it was inconsistent with the Act. In UTP's view, that particular decision dealt with a different situation whereby a single weighted average dumping margin was established after having calculated individual dumping margins for the individual companies, which is not what the Commission had done. UTP provided examples of how, in its opinion, the Commission's approach of calculating a weighted average export price and normal value of the group led to improper comparisons; and
- comments in the UTP visit report which stated '*information and data was provided by UTP JA on behalf of UTP DIP and KHK*'.

Commission's consideration – collapsing of UTP into a single entity

The Commission will reconsider its approach to collapsing UTP into a single entity for the purposes of calculating a dumping margin following publication of this SEF. Given the timing of UTP's submission and in order to keep to legislative timeframes the Commission has had insufficient time to calculate separate dumping margins before the publication of this SEF.

Submissions regarding model matching

UTP also highlighted in its submission that its visit report was incorrect by referring to 'standard' as a model matching criteria because it was not applied in the calculations. UTP disagreed with the model matching criteria applied in its dumping margin

²⁷ Case No.320 Public Record Item No.35

calculations, stating that 'gauge' is a key model matching criteria which was overlooked despite being shown to affect selling prices to Australia and on the UAE domestic market.

Commission's consideration of submissions regarding model matching

As explained in UTP's submission, the visit report considered eight characteristics in formulating an appropriate model matching methodology. In contrast, the CTMS data provided by UTP only showed details for nine models. Based on the model matching criteria and the CTMS data, the verification team identify 66 models under subsection 269TAC(1) and 11 models for the purpose of constructing normal value under subsection 269TAC(2)(c).

One of the key model matching criteria, as UTP highlight, is wall thickness or 'gauge'. Cost associated with variations in wall thickness was not provided in UTP's CTMS data. As a result, the Commission resorted to grouping various wall thicknesses to ensure fair comparison between export sales and domestic sales. Where normal values were constructed, no such allowance was possible. The issue raised by UTP relates to the composition of the wall thickness groups formulated by the Commission.

The Commission applied the wall thickness groups consistent with those indicated by UTP in its exporter questionnaire response for RHS CTMS. Given the lack of detail regarding wall thickness costs for CHS, the verification team's approach is considered reasonable under the circumstances.

5.6.3 Export price

As noted in the verification visit report for UTP, the Commissioner is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Therefore, the export price for UTP was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

5.6.4 Normal value

For models where there were sufficient sales in the ordinary course of trade (OCOT), the Commission determined that normal values should be calculated under subsection 269TAC(1), using the price paid or payable for like goods sold in the OCOT for home consumption in the UAE, in sales that are arms length transactions by UTP.

For models where there are insufficient sales in the OCOT and there are no reasonable adjustments to ensure fair comparison of normal values with export prices, the normal value cannot be ascertained under subsection 269TAC(1). For these models, the normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the selling, general and administrative (SG&A) costs and profit were established in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation), respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records.

SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsections 269TAC(8)²⁸ and (9)²⁹ as follows:

Adjustment Type	Deduction/addition
Commissions	Deduct commission fees on domestic sales
Customs duties	Deduct cost of customs duties applicable to UTP JA
Inland transport	Deduct / add inland transport costs
Packaging	Deduct / add packaging charges
Export charges	Add export charges
Credit charges	Deduct / add cost of credit
Specification adjustment	Add amount for specification adjustment to normal value of surrogate models
Timing adjustment	Deduct / add timing adjustments to account for instances where domestic and export sales were not made in the same quarter of the investigation period
Weight tolerance adjustment	Add weight tolerance adjustment

Table 3: Adjustments to UTP's normal value

Submission relating to UTP JA adjustment for Customs Duty

Three submissions addressed a downwards adjustment made in relation to Customs Duty applicable to UTP JA's domestic sales.³⁰ As stated in UTP's exporter questionnaire response:

UTP (JA) is located in the Jebel Ali Free Zone (JAFZ) which provides for the exemption of Customs import and export duties. However, for goods produced by UTP which are then sold to domestic customers located outside of the JAFZ, the normal 5% Customs duty is payable on the domestic invoice value. Please note

²⁸ For all exporters, where the normal value was calculated under subsection 269TAC(1), to ensure the comparability of normal values to export prices, the Commission considers that adjustments are required for maintaining price comparability pursuant to subsection 269TAC(8).

²⁹ For all exporters, where normal value was calculated under subsection 269TAC(2)(c), to ensure the comparability of normal values to export prices, the Commission considers that adjustments are required for maintaining price comparability pursuant to subsection 269TAC(9).

³⁰ Case 320 Public Record Item No. 21, 22 and 34

that this does not apply to domestic sales made to manufacturing customers as they are generally exempt from Customs duties in the UAE. Upon production of the domestic goods, UTP must submit a Customs declaration identifying the details of goods produced in JAFZ which are to be transported outside the zone. UAE Customs then issues invoices for duty payable before the goods are cleared to exit the JAFZ.

UTP JA submits that, consistent with the *Dumping and Subsidies Manual* (the Manual), a downwards adjustment must be made to domestic prices because duties on those goods are exempted from the selling prices of the exported goods.

ATM submits that the Customs Duty adjustment should be disallowed. ATM referenced REP 254 which denied Saha Thai Steel Pipe Public Company Ltd an adjustment for duty drawback in relation to imported hot rolled coil (HRC) which attracted import duty when incorporated in HSS sold domestically, on the basis that an adjustment is only allowable where price comparability of domestic and export sales have been affected.

ATM claims that the adjustment for Customs Duty should be disallowed unless there is evidence that the Customs Duty affected price comparability. ATM states that any difference in Customs Duty would only affect the domestic price if the cost was passed on to the domestic customer through an increase in selling price.

Commission's consideration of the Customs Duty adjustment for UTP JA

The Commission is satisfied that the Customs Duty adjustment is warranted. The domestic selling prices of UTP JA have been examined and the Commission is satisfied that the Customs Duty affected price comparability. Furthermore, the visit team verified source documents which showed that the Customs Duty payable by UTP JA and confirmed it as a direct selling expense which was paid.

Submission received relating to level of trade comparison

Based on an analysis of UTP's price setting practices and actual selling prices, the Commission identified significant price variations at different levels of trade.

ATM submitted on 2 June 2016 that the existence of a price difference between UTP's customers does not in itself establish a difference in level of trade if those price differences are unintentional.³¹ ATM quotes UTP's exporter questionnaire response which states that "*prices for comparable products are essentially the same regardless of the customer and level of trade*".

In addition, ATM submits that, even if there were level of trade differences, the level of trade for the UAE customers are not correctly aligned to the Australian importers. In support of its claims, ATM included a brochure for Winston Steel (one of the trading entities of Winton Scaffolding Pty Ltd - an importer of goods from UTP).

In ATM's view, this brochure shows that, in addition to shipping to customers directly or via its warehouse (distribution), the importer also break packs into individual lengths (retail) and undertake further processing of packs (manufacturers/processors). ATM also

³¹ Case 320 Public Record Item No.34

questioned whether other known importers were compared appropriately to the same level of trade in UAE.

Commission's consideration regarding level of trade

In response to ATM's submission, the Commission must ensure that fair comparison is made between export prices and normal values at a comparable level of trade. Although not claimed in its exporter questionnaire response, the verification team sought to test whether or not the various levels of trade indicated by UTP revealed any observable difference and whether its exporter questionnaire response was the correct response.

The verification team concluded that UTP's sales were conducted at several distinct levels of trade. The Commission does not agree that the approach to identifying levels of trade is merely predicated on the exporter's questionnaire response alone. The purpose of verification is to verify all responses provided by exporters. In light of ATM's submission, the Commission has reviewed the importer questionnaire response provided by Winston Steel. Based on the customer listing and prices observed, the Commission remains satisfied that its determination of the level of trade used to calculate dumping margins was correct.

5.6.5 Preliminary dumping margin

The Commission has calculated the preliminary dumping margin for UTP as 4.8 per cent.

5.7 Dumping assessment – Ajmal from UAE

5.7.1 Verification

Based on the volume of Ajmal's exports relative to the total export volume during the investigation period, a decision was made not to conduct an on-site verification visit at Ajmal's premises.

Whilst a decision was made not to conduct an on-site verification visit, the Commission analysed the data submitted by Ajmal and is satisfied that the data is reasonably accurate, relevant and complete. This data was used to calculate dumping margins.

The Commission's verification report is available on the public record.³²

5.7.2 Export price

As noted in the exporter verification report for Ajmal, the Commissioner is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Therefore the export price for Ajmal was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

³² Case No.320 Public Record Item No.38

5.7.3 Normal value

For models where there were sufficient sales in the OCOT, the Commission determined that the normal value be calculated under subsection 269TAC(1), using the price paid or payable for like goods sold in the OCOT for home consumption in the UAE, in sales that are arms length transactions by Ajmal.

For models where there are insufficient sales in the OCOT and there are no reasonable adjustments to ensure fair comparison of normal values with export prices, the normal value cannot be ascertained under subsection 269TAC(1). For these models, the normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records.

SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsections 269TAC(8) and (9) as follows:

Adjustment Type	Deduction/addition
Domestic packaging	Deduct domestic packaging expenses for subsection 269TAC(1) and section 269TAC(2)(c) normal values.
Domestic inland transport	Deduct domestic packaging expenses for subsection 269TAC(1) and section 269TAC(2)(c) normal values.
Domestic credit terms	Deduct domestic credit terms for subsection 269TAC(1) normal values only.
Specification Adjustment	Deduct a flat rate per tonne for coating thickness specification for subsection 269TAC(1) normal values only.
Timing adjustment	Deduct or add an amount for a timing adjustment, where necessary, for subsection 269TAC(1) and 269TAC(2)(c) normal values
Export packaging	Add export packaging expenses for subsection 269TAC(1) and 269TAC(2)(c) normal values.
Export inland transport and port charges	Add export inland freight and port charges for both subsection 269TAC(1) and section 269TAC(2)(c) normal values
Export credit terms	Add export credit terms for subsection 269TAC(1) and 269TAC(2)(c) normal values.

Table 4: Adjustments to Ajmal normal value

5.7.4 Preliminary dumping margin

The Commission has calculated the dumping margin for Ajmal of 2.7 per cent.

5.8 Dumping assessment – Garg from India

5.8.1 Verification

Garg provided a response to the Commission's exporter questionnaire, and subsequently the Commission conducted an in-country visit to Garg during April 2016 to verify the information disclosed in its exporter questionnaire.

The verification team toured Garg's facility and confirmed that it was the producer of the goods under consideration. A detailed report covering the visit findings is available on the public record.³³

5.8.2 Export price

As noted in the verification report for Garg, the Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Therefore the export price for Garg was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

³³ Case No.320 Public Record Item No.29

5.8.3 Normal value

For models where there were sufficient sales in the OCOT, the Commission determined that normal value be calculated under subsection 269TAC(1), using the price paid or payable for like goods sold in the OCOT for home consumption in India, in sales that are arms length transactions by Garg.

For models where there are insufficient sales in the OCOT and there are no reasonable adjustments to ensure fair comparison of normal values with export prices, the normal value cannot be ascertained under subsection 269TAC(1). For these models, the normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records.

SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsections 269TAC(8) and (9) as follows:

Adjustment Type	Deduction/addition
Export inland transport	Add export inland freight for both subsection 269TAC(1) and subsection 269TAC(2)(c) normal values
Export handling and other charges (includes port charges)	Add export handling and other charges for both subsection 269TAC(1) and subsection 269TAC(2)(c) normal values
Duty drawback	Less 1.9% to galvanised HSS for subsection 269TAC(1) normal values and 269TAC(2)(c) normal values

Table 5: Adjustments to Garg's normal value

5.8.4 Preliminary dumping margin

The Commission has calculated a dumping margin for Garg of negative 11.9 per cent.

The dumping margin calculated for Garg is significantly lower than the dumping margin of 21.1 per cent calculated for the PAD. Subsequent verification of Garg's exporter questionnaire response revealed the following (and explain the reasons for the change):

- Garg had provided a domestic sales gross invoice value inclusive of 12.5 per cent tax. As a result, the profit margin on OCOT sales was overstated. Normal values

constructed under subsection 269TAC(2)(c) were in turn overstated due to the inclusion of this profit margin;

- the PAD dumping margin was based on a comparison of theoretical export weight to domestic actual weight. As outlined in Garg's verification visit report, Garg was able to demonstrate the accuracy of actual export weights which are now used in the calculations;
- certain revisions were necessary to Garg's CTMS data; and
- consistent with other Indian exporters, the Commission has accepted a downwards adjustment to normal values of 1.9 per cent, for duty drawback.

5.9 Dumping assessment – Surya from India

5.9.1 Verification

Surya provided a response to the Commission's exporter questionnaire, and subsequently the Commission conducted an in-country visit to Surya during April 2016 to verify the information disclosed in its exporter questionnaire.

The verification team toured Surya's facilities and confirmed that it was the producer of the goods under consideration. A detailed report covering the visit findings is available on the public record.³⁴

5.9.2 Export price

As noted in the exporter verification report for Surya, the Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Therefore the export price for Surya was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

5.9.3 Normal value

For models where there were sufficient sales in the OCOT, the Commission determined that normal value be calculated under subsection 269TAC(1), using the price paid or payable for like goods sold in the OCOT for home consumption in India, in sales that are arms length transactions by Surya.

For models where there are insufficient sales in the OCOT and there are no reasonable adjustments to ensure fair comparison of normal values with export prices, the normal value cannot be ascertained under subsection 269TAC(1). For these models, the normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

³⁴ Case No.320 Public Record Item No.29

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records.

SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsections 269TAC(8) and (9) as follows:

Adjustment Type	Deduction/addition
Domestic credit	Less an amount for domestic credit for subsection 269TAC(1) normal values only
Domestic commission	Less an amount for domestic commission for subsection 269TAC(1) normal values only
Domestic inland freight	Less an amount for domestic inland freight for subsection 269TAC(1) normal values only
Domestic packaging	Less domestic packaging expenses for subsection 269TAC(1) normal values only
Timing adjustment	Less or add an amount for a timing adjustment, where necessary, for subsection 269TAC(1) normal values only
Export packaging	Add export packaging expenses for subsection 269TAC(1) normal values only
Export inland transport and port charges	Add export inland freight and port charges for both subsection 269TAC(1) and subsection 269TAC(2)(c) normal values
Duty drawback	Less 1.9% to non-galvanised HSS and 2.6% to galvanised HSS (prior to 22 November 2014) for subsection 269TAC(1) normal values only

Table 6: Adjustments to Surya normal value

5.9.4 Preliminary dumping margin

The Commission has calculated a dumping margin for Surya of 0.9 per cent.

5.10 Dumping assessment – Utkarsh from India

5.10.1 Verification

Utkarsh provided a response to the Commission's exporter questionnaire, and subsequently the Commission conducted an in-country visit to Utkarsh during April 2016 to verify the information disclosed in its exporter questionnaire.

The verification team toured Utkarsh's facilities and confirmed that it was the producer of the goods under consideration. A detailed report covering the visit findings is available on the public record.³⁵

5.10.2 Export price

As noted in the exporter verification report for Utkarsh, the Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Therefore the export price for Surya was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

5.10.3 Normal value

For models where there were sufficient sales in the OCOT, the Commission determined that the normal value be calculated under subsection 269TAC(1), using the price paid or payable for like goods sold in the OCOT for home consumption in India, in sales that are arms length transactions by Utkarsh.

For models where there are insufficient sales in the OCOT and there are no reasonable adjustments to ensure fair comparison of normal values with export prices, the normal value cannot be ascertained under subsection 269TAC(1). For these models, the normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records.

SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsections 269TAC(8) and (9) as follows:

³⁵ Case No.320 Public Record Item No.29

Adjustment Type	Deduction/addition
Domestic packaging	Deduct domestic packaging expenses for subsection 269TAC(1) normal values only.
Timing adjustment	Deduct or add an amount for a timing adjustment, where necessary, for subsection 269TAC(1) normal values only.
Export packaging	Add export packaging expenses for subsection 269TAC(1) and 269TAC(2)(c) normal values.
Export inland transport and port charges	Add export inland freight and port charges for both subsection 269TAC(1) and subsection 269TAC(2)(c) normal values.
Specification Adjustment	Add a flat rate per tonne for end type specification other than plain end for subsection 269TAC(2)(c) normal values.
Duty drawback	Deduct 1.9% of the FOB value of HSS for subsection 269TAC(1) and 269TAC(2)(c) normal values.

Table 7: Adjustments to Utkarsh normal value

5.10.4 Preliminary dumping margin

The Commission has calculated a dumping margin for Utkarsh of 1.0 per cent.

5.11 Dumping assessment – Good Luck from India

5.11.1 Verification

Based on the volume of Good Luck's exports relative to the total export volume during the investigation period a decision was made not to conduct an on-site verification visit at Good Luck's premises.

Whilst a decision was made not to conduct an on-site verification visit, the Commission analysed the data submitted by Good Luck and is satisfied that the data is reasonably accurate, relevant and complete. This data was used to calculate dumping margins.

The Commission's verification report is available on the public record.³⁶

5.11.2 Export price

As noted in the exporter verification report for Good Luck, the Commission is satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in an arms length transaction by the importer from the exporter.

Therefore the export price for Good Luck was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

5.11.3 Normal value

For models where there were sufficient sales in the OCOT, the Commission determined that the normal value be calculated under subsection 269TAC(1), using the price paid or

³⁶ Case No.320 Public Record Item No.37

payable for like goods sold in the OCOT for home consumption in India, in sales that are arms length transactions by Good Luck.

For models where there are insufficient sales in the OCOT and there are no reasonable adjustments to ensure fair comparison of normal values with export prices, the normal value cannot be ascertained under subsection 269TAC(1). For these models, the normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records.

SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsections 269TAC(8) and (9) as follows:

Adjustment Type	Deduction/addition
Domestic packaging	Deduct domestic packaging expenses for subsection 269TAC(1) normal values only.
Timing adjustment	Deduct or add an amount for a timing adjustment, where necessary, for subsection 269TAC(1) normal values only.
Export packaging	Add export packaging expenses for subsection 269TAC(1) and 269TAC(2)(c) normal values.
Export inland transport and port charges	Add export inland freight and port charges for both subsection 269TAC(1) and subsection 269TAC(2)(c) normal values.
Bank Commission	Add export bank commissions for both subsection 269TAC(1) and subsection 269TAC(2)(c) normal values.
Duty drawback	Deduct 1.9% of the FOB value of HSS for subsection 269TAC(1) and 269TAC(2)(c) normal values.

Table 8: Adjustments to Good Luck normal value

5.11.4 Preliminary dumping margin

The Commission has calculated a dumping margin for Good Luck of 5.1 per cent.

5.12 Uncooperative and all other exporter dumping margins

As detailed in section 5.4 above, the Commission is treating all exporters of HSS from India and the UAE in the investigation period other than Garg, Good Luck, Surya, Utkarsh, Ajmal and UTP, as uncooperative exporters as defined in subsection 269T(1).

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3) and normal values are to be calculated under subsection 269TAC(6).

The Commission has therefore determined an export price pursuant to subsection 269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest of the weighted average export prices of those that were established for cooperating exporters in the investigation period.

The Commission has determined normal value for the uncooperative exporters pursuant to subsection 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest of the weighted average normal values of those that were established for the cooperating exporters in the investigation period.

This dumping margin for uncooperative and all other exporters from India and the UAE are as follows:

- India – 5.7 per cent
- UAE – 4.8 per cent

5.13 The Commissioner's assessment

The Commissioner has assessed that:

- HSS exported to Australia from India by Garg were not dumped during the investigation period;
- HSS exported to Australia from India by Surya and Utkarsh were at dumped prices during the investigation period however the dumping margins were negligible;
- HSS exported to Australia from India and the UAE by Good Luck, Ajmal and UTP were at dumped prices where the dumping margin was not negligible and that the volume of dumped goods was not negligible during the investigation period.
- the dumping margin for uncooperative exporters from India is 5.7 percent and the UAE is 4.8 per cent.

A summary of the Commission's preliminary dumping margins are set out in Table 9.

Country	Exporter	Dumping Margin
India	Garg Tubes Limited	-11.6%
	Good Luck Steel Tubes Limited	5.1%
	Surya Global Steel Tubes Ltd	0.9%
	Utkarsh Tubes & Pipes Ltd	1.0%
	Uncooperative and All Other Exporters	5.7%
UAE	Ajmal Steel Tubes and Pipes Industries LLC	2.7%
	Universal Tubes and Plastic Industries Limited; KHK Scaffolding and Formwork LLC; and Universal Tube and Pipe Industries LLC	4.8%
	Uncooperative and All Other Exporters	4.8%

Table 9: Preliminary dumping margins

5.14 Volume of dumped imports

Pursuant to subsection 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over the investigation period if subsection 269TDA(5)(c) does not apply.

Using the ABF import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of allegedly dumped goods from India was greater than three per cent of the total import volume and is therefore not negligible. The volume of allegedly dumped goods exported from the UAE, when expressed as a percentage of the total Australian import volume was greater than three per cent of the total import volume and is therefore not negligible. Accordingly, the Commissioner does not propose to terminate this investigation against India and the UAE under subsection 269TDA(3).

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Applicant's injury claims

In its application, ATM claimed that the allegedly dumped imports of HSS from India and UAE have caused it material injury in the form of:

- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced return on investment;
- reduced employment;
- reduced capacity;
- write-down of goodwill associated with the HSS business;
- reduced capital expenditure;
- reduced R&D expenditure;
- reduced attractiveness to reinvest; and
- reduced capacity utilisation.

6.2 Commencement of injury, and analysis period

In CON 320, relevant to the acceptance of ATM's application, it was noted that:

ATM claims that HSS exported to Australia from India and the United Arab Emirates has caused injury to the Australian industry since June 2012 after the imposition of measures in respect of certain other countries following REP177.

This chapter reports on the economic condition of the Australian industry and provides an assessment as to whether the industry has suffered injury. The analysis of injury to the Australian industry is based on verified information from ATM. The Commission has verified data the provided in ATM's application and is satisfied this data is complete, accurate and relevant to its production and sales of HSS, and is sufficient for the purpose of assessing the injury to the Australian industry. ATM verification visit report is available on the public record.

It is estimated that ATM represents more than 50 per cent of the volume of sales of HSS manufactured by the Australian industry in the investigation period. Therefore, the Commission is of the view that the injury experienced by ATM can be considered representative of the injury experienced by the Australian industry as a whole.

6.3 Volume trends

ATM's annual sales volumes of its self-produced HSS are illustrated in the following chart. ATM suffered deterioration in sales volumes in the three years leading up to the investigation period. Sales volumes in the investigation period increased, however as discussed in the following sections, ATM's financial position has not shown a corresponding improvement.

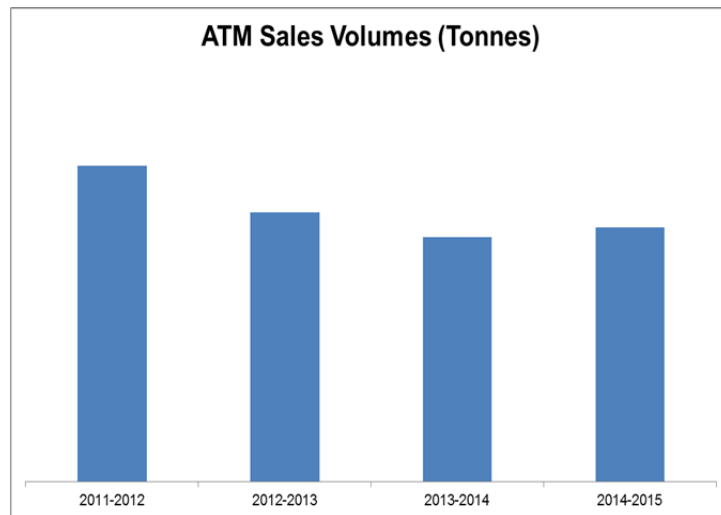


Figure 2: ATM HSS Sales Volume

6.4 Price suppression and depression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

Price suppression

Figure 3 illustrates that, in the investigation period, the margin between unit selling prices and unit CTMS narrowed slightly from the previous year. However, ATM's unit selling prices did not exceed unit CTMS for any year in the injury analysis period.

This supports ATM claims that it faced price pressure which has not allowed unit selling prices to exceed unit CTMS in the injury analysis period or allowed ATM to increase its prices generally. ATM therefore initially appears to have suffered injury in the form of price suppression.

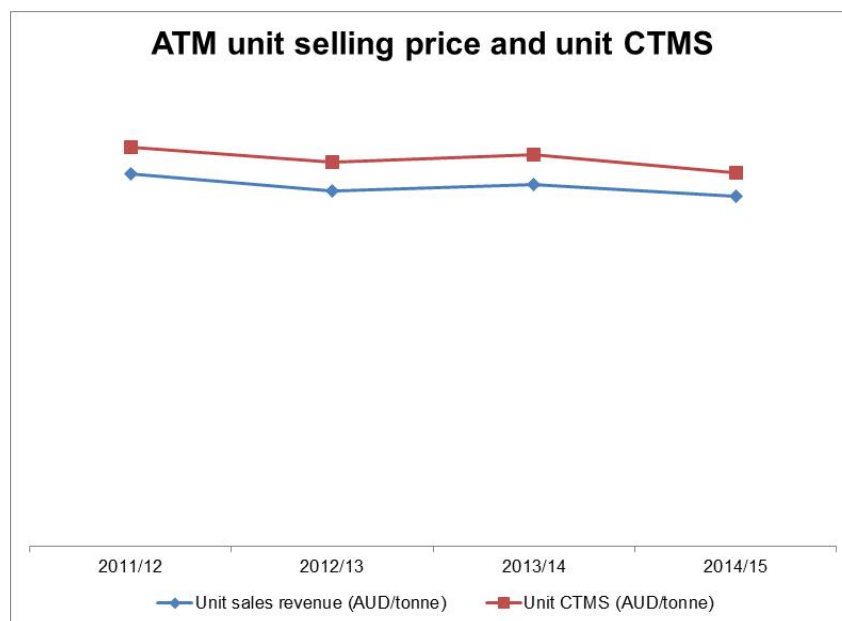


Figure 3: ATM's unit selling price and unit CTMS

Given that 85 per cent of imports from India and the UAE were HDG CHS, the Commission conducted a separate price suppression analysis in relation to ATM's sales of galvanised CHS.

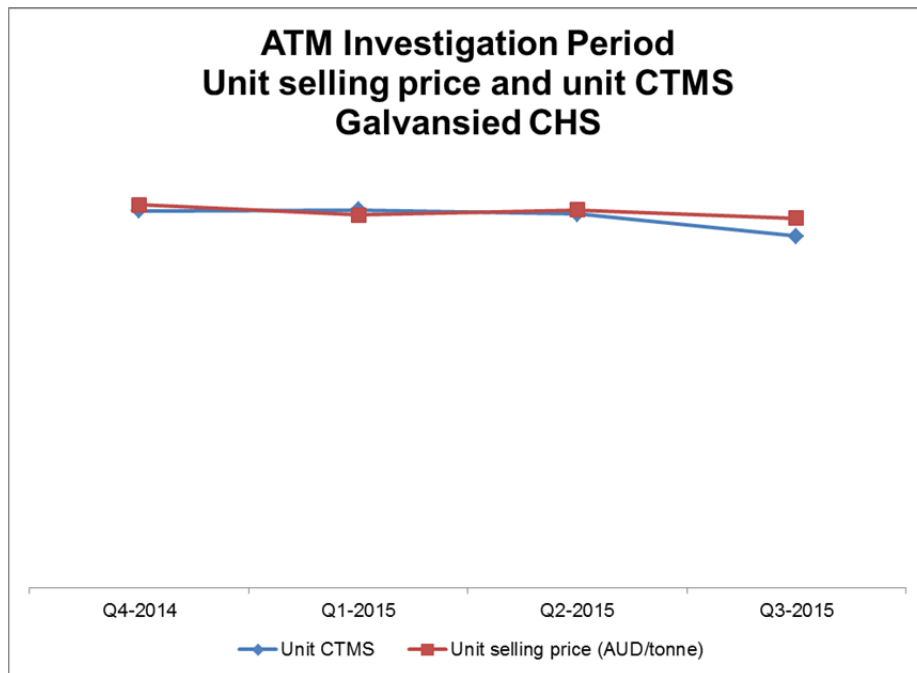


Figure 4: ATM's unit selling price and unit CTMS

Figure 4 above shows that ATM's unit selling price for galvanised CHS remained relatively stable during the investigation period. However, the CTMS for galvanised CHS decreased and sales of this product were profitable by the end of the investigation period.

Price depression

Figure 5 indicates that unit selling prices have generally decreased over the injury analysis period and despite an upturn in sales volume in 2014/15; unit selling prices fell to a four year low. The comparison between unit selling prices and sales volume is supportive of ATM's claims that its prices have been reduced to maintain sales volumes.

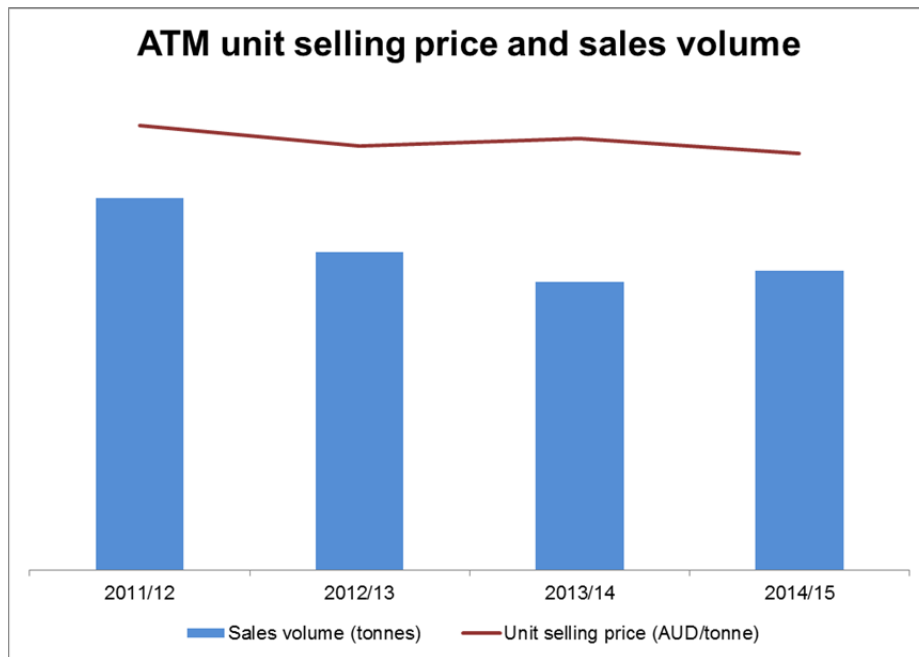


Figure 5: Domestic unit sale price and sales volume

In contrast to Figure 5 above, analysis of the galvanised CHS product shown in Figure 6 below demonstrates that ATM's unit selling price for galvanised CHS remained stable during the investigation period however, sales volumes have fluctuated.

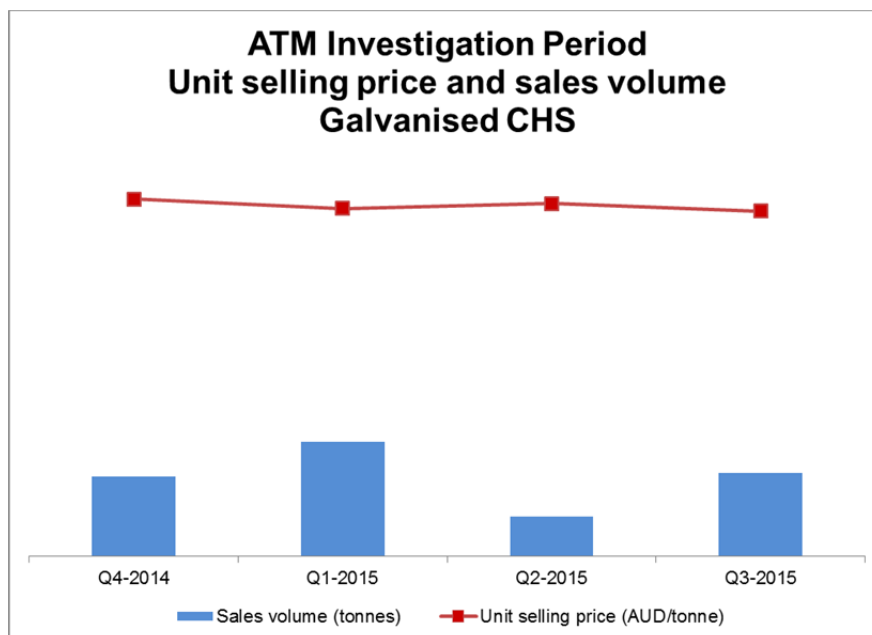


Figure 6: ATM's unit selling price and sales volume

6.5 Revenue

Figure 5 illustrates that ATM experienced an improvement in HSS sales volumes in the investigation period, however its unit selling price decreased and exhibits a downward trend over the injury period generally.

6.6 Profits and profitability

ATM indicates that profit on domestic sales of HSS has improved in 2014/15 as a result of the combined effect of higher domestic sales volumes and cost reduction initiatives. However, ATM contends that material injury continued over the injury analysis period because new import sources emerged from countries not subject to anti-dumping measures, i.e. India and the UAE.

Figure 7 below, charts the relationship between ATM's combined total profit and unit profitability over the injury analysis period.

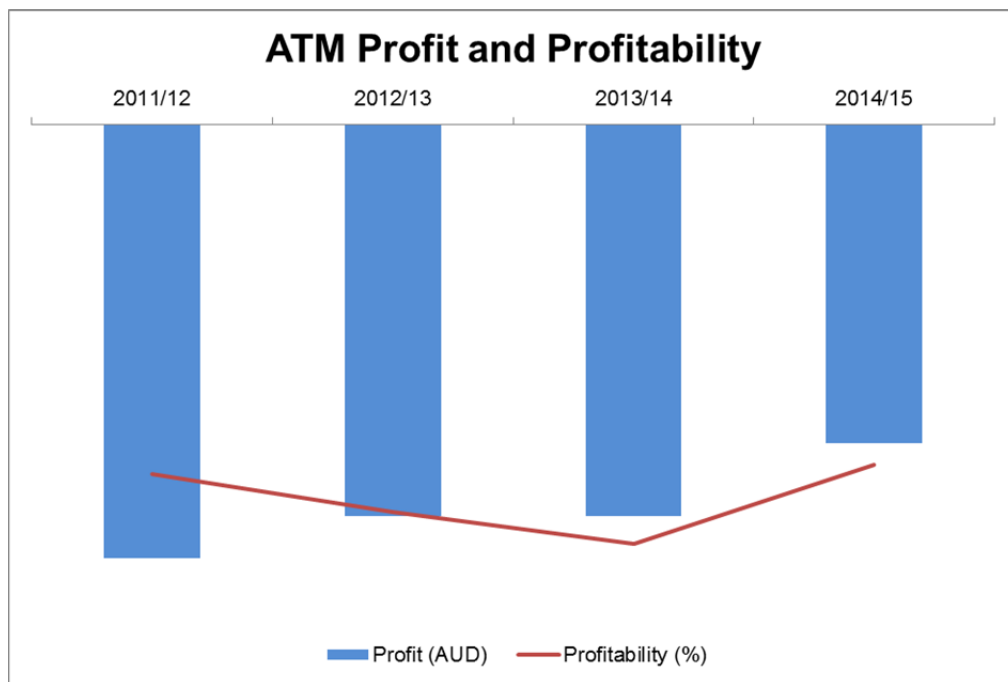


Figure 7: ATM domestic profit and unit profitability

The Commission analysed profit and profitability at the galvanised HSS level over the injury period.

Figure 8 below shows that sales of galvanised CHS outperformed the company's sales as a whole and were able to achieve profit and profitability in three quarters of the investigation period. Sales of galvanised CHS have exhibited a net profit in the investigation period.

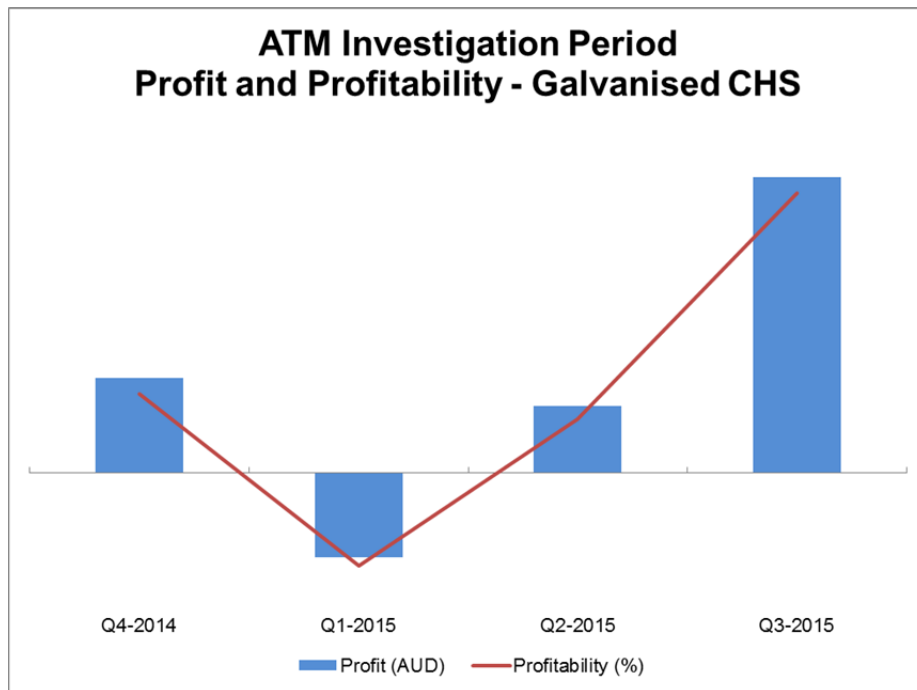


Figure 8: ATM domestic profit and unit profitability

6.7 Other injury factors

ATM completed Confidential Appendix A7 for each financial year ending 30 June, for 2010 to 2015 to support its claims in terms of certain other injury factors. The Commission was unable to make meaningful conclusions regarding ATM's claimed injury in terms of write-down of goodwill associated with the HSS business, reduced capital expenditure and reduced attractiveness to reinvest, after examining them in the course of the investigation.

The Commission provides the following observations in relation to return on investment (ROI), capacity, capacity utilisation, R&D and reduced employment.

6.7.1 ROI

ATM's ROI fluctuated over the injury analysis period. Despite a reduction in the magnitude of negative ROI in financial years 2013 and 2014, the magnitude of negative ROI in financial years 2011 and 2012 to 2015 has caused a downward trend in ATM's ROI across the injury analysis period.

In the 2015 financial year, ATM reported its lowest ROI result compared to all other years in the injury analysis period.

The Commission recognises that the formulation of ROI requires an analysis of the underlying factors that relate to an organisation's accounting practices and policies. However, the negative earnings before interest and tax (EBIT) reported by ATM appears to be driven by the disparity between the revenue it should be earning to cover the costs of production. Whilst the negative EBIT result may be influenced by other factors, the Commission is of the view that the downward pressure on prices for HSS on the Australian market has occurred. At this stage, the Commission is therefore satisfied that ATM has suffered injury in the form of reduced ROI.

6.7.2 Capacity

ATM has reported a gradual decline in capacity across the injury analysis period with the 2015 financial year recording the lowest capacity. The recent reduction in capacity can be attributed to the closure of ATM's Victorian facility at Somerton and other measures the company has implemented in a bid to reduce costs. The reductions in capacity will likely impact on ATM's future ability to respond to future changes in the market, e.g. product offering or market growth.

6.7.3 Capacity utilisation

Consistent with the reduction in capacity, ATM has reported a corresponding improvement in capacity utilisation.

6.7.4 R&D

Relative to financial year 2011, ATM's application indicates that expenditure on R&D in financial year 2013 declined. ATM also highlights that expenditure on R&D in financial year 2014 and 2015 is yet to be made available.³⁷ As a result, there is insufficient data in ATM's application to enable the Commission to make a valid observation regarding the injury caused to ATM's R&D activities.

6.7.5 Reduced employment

ATM has reported a continual downward trend in employment levels across the injury analysis period. The reduction in staff is consistent with the reduction in capacity. The reduction in employment levels is likely to be caused in part by the decline in capacity.

6.8 Conclusion

Based on an analysis of the information contained in the application and obtained and verified during our visit, the Commission considers that ATM has experienced injury in relation to all sales of HSS in the form of:

- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced revenue;
- return on investment;
- reduced employment numbers; and
- reduced capacity.

However, in relation to sales of galvanised HSS only, the injury suffered was of a lesser magnitude during the investigation period.

³⁷ Case 320 Public Record Item No.1, p.26.

7 HAS DUMPING CAUSED MATERIAL INJURY?

7.1 Preliminary finding

The Commissioner's preliminary finding is that during the investigation period, while certain exports of HSS from India and the UAE were dumped, these exports did not cause material injury to the Australian industry.

7.2 Legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods.

Subsection 269TAE(1) outlines the factors that the Parliamentary Secretary may take into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened.

The Commissioner has also had regard to the *Ministerial Direction for Material Injury*.³⁸

7.3 Size of the dumping margins

Under subsection 269TAE(1)(aa), the Parliamentary Secretary may have regard to the size of each of the dumping margins in respect of the goods exported to Australia.

The dumping margins outlined in Chapter 5 for the six cooperative exporters, which represented approximately 95 per cent of the combined export volume from India and the UAE during the investigation period, ranged between negative 11.5 per cent and 4.8 per cent. The dumping margin for uncooperative and all other exporters from India was 5.7 per cent and for the UAE was 4.8 per cent. The weighted average dumping margin is negative 1.9 per cent for all exports from India and 4.6 per cent for all exports from the UAE.

The volume of goods where the dumping margin was not negligible, i.e. above 2 percent, represented around 6.5 per cent of the overall Australian market for HSS in the investigation period. The Commissioner is not satisfied that these dumping margins, in and of themselves enabled importers of HSS to have a distinct competitive advantage on price compared to the Australian industry.

7.4 Volume effects

As discussed in Chapter 6, the Australian industry experienced a decline in sales volume over the injury analysis period, despite an improvement in the investigation period. Although ATM has not claimed volume as an injury factor, the Commission has analysed the respective volume effects during the investigation period.

³⁸ Ministerial Direction on material injury 2012, 27 April 2012, available at www.adcomission.gov.au

7.4.1 Sales volumes

The Commission's analysis identified that during the investigation period:

- the Australian HSS market decreased by approximately 7 per cent;
- import volumes from India grew by 25 per cent however import volumes from the UAE decreased almost 30 per cent;
- import volumes from China also grew 10 per cent;
- with the exception of Vietnam, import volumes from all other countries decreased by at least 25 per cent ranging up to 51 per cent.
- the Australian industry sales volumes decreased by 1.5 per cent.

It is evident from this analysis that imports from India have increased and offset the reduction in imports sourced from other countries. As a result, the growth in import volumes from India is disproportionate to the market generally which decreased in volume by approximately 34,000 tonnes. It is noted that import volumes from India have grown significantly both in absolute terms and relative to the size of the Australian market (subsection 269TAE(1)(a)(b) and (c)(i)). However, the same cannot be said for imports of HSS from the UAE which have decreased.

7.4.2 Market share

The Commission's analysis identified that during the investigation period:

- despite a 7 per cent reduction in the overall size of the Australian HSS market, the Australian industry experienced a 3.5 per cent increase in market share;
- along with China, the market share of imports sourced from India increased by 1.8 per cent however decreased by 1.6 for imports sourced from the UAE; and
- the market share for imports from countries not subject to the investigation decreased by approximately 1 per cent.

Given the increase in the market share of the Australian industry and the decline of imports from countries not subject to the investigation in a contracting market, the Commission considers that the Australian industry has not lost market share to dumped imports from India and the UAE during the investigation period.

7.5 Price undercutting

Price undercutting occurs when imported goods are sold at a price below that of the domestically produced goods.

The Commission undertook a price undercutting analysis based on verified sales data sourced from the four importers who completed importer questionnaire responses and ATM for the investigation period.

Given that over 85 per cent of HSS exported to Australia from India and the UAE is galvanised CHS, the Commission narrowed its price undercutting analysis to galvanised CHS.

In conducting the price undercutting analysis, the Commission compared ATM's weighted average selling prices (AUD per tonne) to importers' selling prices of imported goods from India and the UAE at a comparable level of trade.

7.5.1 The Commissioner's assessment – price undercutting

The Commissioner is satisfied that ATM's selling prices for galvanised CHS were undercut by sales of galvanised CHS exported from India and the UAE.

However, undercutting was most prevalent in relation to goods which were either not dumped or dumped at negligible margins.

With the exception of imports from one exporter, the average level of price undercutting was in a range from between 12.5 per cent to 16 per cent. On a monthly basis, in some instances, in relation to imports where the dumping margins were above 2 per cent, no undercutting was observed.

Relying on price lists provided by ATM applicable to the investigation period, the Commission observed that the steel grade is a price determinant and higher steel grades attract higher prices. Considering that the grade of galvanised CHS sold by ATM was higher than the grade of galvanised CHS imported from India and the UAE, the level of price undercutting observed is not unexpected.

Generally, imports from the UAE were undercut by imports from India, however, over 80 per cent of the volume from India was not dumped or dumped at negligible levels.

The Commission also compared the prices of imported galvanised CHS to the prices of ATM's other CHS in different finish types and did not find undercutting.

The Commission's undercutting analysis revealed that the grade of galvanised CHS imported into Australia was predominately a 250 grade product whereas the grade of galvanised CHS sold by ATM during the investigation period was predominately of a higher grade. ATM's sales of 250 grade represented only 10 per cent of its total sales volume of galvanised CHS and its sales of 350 and 450 grade represented the remaining sales volume.

Further, the volume of galvanised CHS sold by ATM represented an immaterial proportion of its total sales during the investigation period. The Commission is therefore satisfied that injury caused by the price undercutting in relation to dumped imports of galvanised CHS from India and the UAE is negligible.

7.6 Price effects

7.6.1 Price depression and suppression

Verification of ATM's selling prices, price setting methodology, and subsequent comparison to import offers, confirms that ATM relies on a pricing strategy that seeks to maintain parity with the imported prices of HSS from countries including India and the UAE.

Since the type of HSS exported from India and the UAE is predominately galvanised CHS the Commission has conducted a detailed analysis of price depression and price suppression for this product.

Figure 4 in section 6.4 illustrates that ATM's unit selling price for galvanised CHS remained relatively stable during the investigation period. However, the CTMS for

galvanised CHS decreased and sales of this product were profitable by the end of the investigation period.

In relation to its total HSS sales, the Commission is satisfied that ATM has suffered injury in the form of price depression and price suppression. However the price effects in relation to galvanised CHS, which is the product predominately imported from India and the UAE, was less noticeable.

7.7 Profit and profitability effects

As outlined in Chapter 6, ATM experienced a general deterioration in its profit and profitability. However, in relation to the most comparable product exported to Australia from India and the UAE, i.e. galvanised CHS, the Commission has observed improved profit margins as a result of reductions in ATM's CTMS for galvanised CHS during the investigation period.

Whilst price undercutting has been observed, price undercutting is likely the result of a combination of;

- prices of goods exported to Australia which were not dumped or at prices where the dumping margin was negligible; and,
- the price of higher grade CHS sold by the Australian industry which attracts a price premium over the grade of imported CHS.

The Commission also observed that where price undercutting has occurred in relation to exports which were dumped at levels that were not negligible, the price undercutting of these products was less than or comparable to the price undercutting observed for goods which were not dumped or were dumped at negligible margins.

The Commission is not satisfied that price undercutting observed in relation to dumped imports of galvanised CHS from India and the UAE, has caused material injury in the form of reduced profits and profitability.

7.8 Other injury factors

As explained in Chapter 6 the Commission has found that ATM has experienced injury in the form of other injury factors related to the production of HSS.

However, given the findings outlined in section 7.6 and 7.7, the Commission does not attribute that injury to dumped exports from India and the UAE.

7.9 Injury caused by factors other than dumping

Subsection 269TAE(2A) requires consideration of whether injury to an industry is being caused or threatened by a factor other than the dumped goods.

During the investigation, the Commission considered each of the following possible causes of injury:

- HDG pipes and value proposition;
- Reduction in iron ore price and HRC;
- emergence of exports from India;
- imports from China; and,
- the Australian industry's competitiveness.

7.9.1 HDG pipes and value proposition

At the verification visit to UTP Australia, it commented that the goods exported from the UAE were HDG HSS for outdoor applications which should not be considered as similar to the 'like goods' produced by the Australian industry. UTP Australia highlighted that ATM currently produce pre-galvanised HSS which it claims is not similar in terms of physical likeness, functionality (end-use) and production process. UTP Australia noted the following:

- Pre-galvanised HSS is more expensive due to the higher cost of pre-galvanised feedstock;
- pre-galvanised HSS is not used in outdoor settings and is generally of a thinner section size (of around 20mm outside diameter) than HDG pipe;
- pre-galvanised HSS is generally in RHS form whereas HDG is better suited to CHS pipe;
- HDG HSS is cheaper and generally used outdoors and in the agriculture industry; and
- ATM does not possess HDG facilities.

On the basis that ATM does not produce HDG products, UTP Australia was of the view that anti-dumping measures should not apply to imports of HDG HSS.

The arguments raised by UTP were also reflected in comment made by MISO during the Commission's visit to its premises. Both parties discuss the relevance of HDG CHS in the context of whether this particular product should be considered a 'like good'. The Commission has not altered its assessment of like goods as a result of UTP's and MISO's comments. In addition, both parties raise issues relating to whether sales of pre-galvanised CHS provides the same value proposition for customers who customarily purchase a HDG product.

It would appear from ATM's pricing data and its product availability guides, the most similar offering competing with the imported HDG pipe is a 350 grade pre-galvanised product. ATM also offers this product in 250 grade product however and in HDG form, however the price exceeds even that of its own pre-galvanised 350 grade HSS. Whilst it also sells 250 grade HSS in painted form, the market appears to exhibit a preference for HDG HSS in the 250 grade where fit for purpose.

Considering that the predominant grade of HDG pipe imports from India and the UAE are a 250 grade, the Commission is of the view that this grade is satisfactory for the end use for which it is being purchased. The Commission has also established that higher grade 350 pipe is more expensive and in addition, if that higher grade HSS is made from pre-galvanised feed stock which is likely to have a higher price.

The Commission therefore concludes that the Australian market for galvanised HSS exhibits a preference for 250 grade HDG CHS rather than the higher priced 350 grade in some applications. In a price sensitive market, it is not unreasonable that customers are reluctant to pay a higher price for products that exceed their requirements.

7.9.2 Reduction in iron ore price and HRC

In its submission of 30 December 2015, Winston Scaffolding (an importer) highlights that the fall in the iron ore price has caused a fall in the price of HRC, which is a key input in the manufacture of HSS.³⁹

Information obtained by the Commission suggests the prices for HRC out of India reduced by 26 per cent over the course of the investigation period and Middle East HRC prices decreased by 38 per cent.

In its submission of 8 March 2016, UTP provided data which shows the price of HRC has continued to decline following the investigation period although at a reduced rate.

In its submission of 30 December 2015, Winston Scaffolding alleges that the cost of HRC supplied to ATM by BlueScope is uncompetitive compared to international HRC costs. Winston Scaffolding states that HRC prices have fallen more dramatically than the exchange rate between the Australian and US dollar.

The Commission has observed that ATM has also been the recipient of lower HRC prices. Nonetheless, given that the price of HSS is sensitive to the movements in the price of HRC and this is a price determinant, the prices of HRC are considered to be a contributory factor to the price depression suffered by the Australian industry.

7.9.3 Emergence of imports from India

In its submission of 30 December 2015, Winston Scaffolding (an importer) submitted that exports of HSS from India have surged in the 12 to 18 period prior to the initiation of the investigation.⁴⁰ Winston Scaffolding also submits that Indian exports have gained market share through lower prices.

As discussed in Section 7.4, the Commission has observed a marked increase in imports of HSS from India and a reduction in imports from the UAE. The Commission price undercutting analysis also shows that the increased sales volumes from India are from sources that are either not dumped or at negligible margins. This suggests that undumped goods from India are contributing to the injury caused to Australian industry.

7.9.4 Imports from China

HSS imported from China is currently subject to anti-dumping measures however as outlined in section 4.4, Chinese imports of HSS continue to represent 25 percent of all HSS imports. Chinese HSS imports also grew by 10 per cent during the investigation period.

7.9.5 Australian industry competitiveness

Surya outlines its views that the Australian industry has not taken any substantial measures to improve competitiveness.⁴¹

³⁹ Case 320 Public Record Item No.4

⁴⁰ *Ibid.*

⁴¹ Case 320 Public Record Item No.31, p.11.

Surya's submission considers that the Australian industry has orchestrated a sustained campaign which seeks to block all competition "*under the shelter or anti-dumping measures*".

Surya did not provide evidence in support of the above; therefore the Commission has not had regard to those claims.

As discussed in ATM's verification visit report, ATM has undertaken several initiatives, such as plant closures and product consolidation, in order to reduce costs and improve its margins.⁴² As outlined in sections 6.6 and 7.4 of this report, other indicators of ATM's improved performance include improved profit and profitability for galvanised HSS sales and an increase in market share within a contracting market.

7.10 The Commissioner's findings

In conclusion, the investigation has found that:

- the size of the dumping margins observed in relation to exports of HSS from India and the UAE are unlikely to have enabled importers of HSS to have a distinct competitive advantage on price compared to ATM;
- the predominant volume of imports which undercut ATM's prices were not dumped or were at prices where the dumping margin was negligible;
- the level of price undercutting for ATM's galvanised products is likely amplified due the price of higher grade product sold by ATM which attracts a price premium over the cheaper grade of imported CHS;
- injury analysis for ATM's galvanised products (which accounts for 85 per cent of the imports from India and the UAE) shows ATM suffered price and profit injury to a lesser extent than its overall HSS sales.

The Commission also finds that injury from other factors may have contributed to ATM's injury. These other factors include:

- market preference for HDG HSS sourced from India and the UAE in fit for purpose applications;
- reductions in HRC costs (which represent a substantial proportion of total CTMS);
- increased volumes from India at prices which are not dumped or are dumped at negligible margins; and,
- the continued presence of imports of HSS from China in significant volumes.

As a result of the above, the Commissioner concludes that the Australian industry has not suffered material injury caused by dumped exports of the goods from India and the UAE.

⁴² Case 320 Public Record Item No.27, p.14-18

8 PROPOSAL TO TERMINATE INVESTIGATION

Section 269TDA outlines when the Commissioner must terminate an investigation.

Based on the findings in this SEF, and subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation:

- in so far as it relates to HSS exported by Garg from India in accordance with subsection 269TDA(1)(b), on the basis that no dumping occurred;
- in so far as it relates to HSS exported by Surya and Utkarsh from India in accordance with subsection 269TDA(1)(b), on the basis that dumping margins were found to be negligible; and
- in accordance with subsection 269TDA(13), because the injury to the Australian industry, that has been, or may be, caused by dumped exports from India and UAE is negligible.

9 APPENDICES AND ATTACHMENTS

Appendix 1	List of submissions
Confidential Attachment 1	Assessment of Australian market
Confidential Attachment 2	Dumping margin calculations – UTP
Confidential Attachment 3	Dumping margin calculations – Ajmal
Confidential Attachment 4	Dumping margin calculations – Garg
Confidential Attachment 5	Dumping margin calculations – Surya
Confidential Attachment 6	Dumping margin calculations – Utkarsh
Confidential Attachment 7	Dumping margin calculations – Good Luck
Confidential Attachment 8	Dumping margin calculations – Uncooperative and all other exporters
Confidential Attachment 9	Price undercutting analysis
Confidential Attachment 10	Variable factors summary table

APPENDIX 1 - LIST OF SUBMISSIONS

Date Received	Submission from	Subject of Submission	EPR No.
30 December 2015	UTP Australia	Urgent Submission – Case 320	4
18 January 2016	Dixon (Asia Pacific) Pty Ltd	Anti-Dumping Notice 2015/154	5
12 January 2016	Firequip Pty Ltd	Re: Imposition of 6.8% Interim Dumping Duty on UTP HSS	6
3 February 2016	Surya	Urgent Submission – Case 320	7
8 March 2016	UTP Australia	Investigation into Hollow Structural Sections from UAE	17
3 March 2016	ATM	ADC India UAE Exporter Briefing	18
19 March 2016	Surya	PAD Calculation	19
19 March 2016	Surya	Imposition of Combination Duties	20
23 March 2016	ATM	Duty Drawback Claim of UTP of UAE	21
1 April 2016	UTP JA	Investigation into Hollow Structural Sections from UAE	22
15 April 2016	ATP	Hollow Structural Sections Exported from India and the United Arab Emirates	25
19 May 2016	Orrcon	Hollow Structural Sections Exported from India and the United Arab Emirates	28
21 May 2016	Surya	Untitled	31
30 May 2016	ATM	Hollow Structural Sections – Like Goods	32
2 June 2016	ATM	Hollow Structural Sections Exported from India and the United Arab Emirates	34
3 June 2016	UTP	Investigation into Hollow Structural Sections from UAE	35