



Australian Government
Anti-Dumping Commission

PUBLIC RECORD

CUSTOMS ACT 1901 - PART XVB

REPORT NO. 254

ALLEGED DUMPING OF CERTAIN HOLLOW STRUCTURAL SECTIONS EXPORTED FROM THE KINGDOM OF THAILAND

July 2015

HSS Thailand – Report 254

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ABBREVIATIONS

\$	Australian dollars
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
The Act	Customs Act 1901
The applicant	AusTube Mills Pty Ltd
APT	Australian Pipe and Tube Pty. Ltd.
ATM	AusTube Mills Pty Ltd
The Commissioner	The Commissioner of the Anti-Dumping Commission
The Commission	The Anti-Dumping Commission
CFR	Cost and freight
CHS	Circular hollow sections
COGS	Cost of goods sold
CON254	Anti-Dumping Commission's consideration report for the investigation
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
EBIT	Earnings before interest and tax
FOB	Free On Board
HDG	Hot-dipped galvanised
HRC	Hot-rolled coil
HSS	Certain hollow structural sections (as defined in Section 3.1 of this report)
ITM	Independent Tube Mills Pty Ltd
ILG	In-line galvanised
NIP	Non-injurious Price
Orrcon	Orrcon Steel Pty Ltd
PAD	Preliminary Affirmative Determination
RHS	Rectangular hollow sections
SEF	Statement of Essential Facts
SHS	Square hollow sections
Tamose	Tamose Trading Co Ltd
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Minister	the Minister for Industry and Science
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science
USP	Unsuppressed Selling Price

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This investigation is in response to an application by Austube Mills Pty. Ltd. (ATM) in relation to the allegation that dumped hollow structural sections (HSS) exported to Australia from the Kingdom of Thailand (Thailand) caused material injury to the Australian industry producing like goods.

This report (REP 254) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) has based a recommendation to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary)¹ in relation to ATM's application.

1.2 Recommendation

The Anti-Dumping Commission (the Commission) has found that HSS exported to Australia from Thailand was exported at dumped prices during the investigation period, the volumes of dumped goods were not negligible and that exports of those goods at dumped prices caused material injury to the Australian industry.

The Commissioner recommends to the Parliamentary Secretary that a dumping duty notice be published in respect of all exports of HSS from Thailand.

If the Parliamentary Secretary accepts this recommendation, to give effect to the decision, the Parliamentary Secretary must sign the relevant notices and schedules, under subsections 269TG(1) and 269TG(2) of the *Customs Act 1901* (the Act),² and section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

1.3 Application of law to facts

1.3.1 Authority to make decision

Division 2 of Part XVB of the Act sets out, among other matters, 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 for the purpose of making a report to the Parliamentary Secretary.

¹ The Minister for Industry and Science delegated responsibility for anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker for this investigation

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

1.3.2 Application

On 10 June 2014, ATM lodged an application requesting that the then Minister for Industry³ (the Minister) publish a dumping duty notice in respect of HSS exported to Australia from Thailand.

ATM alleges that the Australian industry has suffered material injury caused by HSS exported to Australia from Thailand at dumped prices. ATM claims that material injury in respect of HSS from Thailand commenced in June 2012 following the imposition of anti-dumping measures on exports from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan. ATM observed an increase in exports from Thailand following the imposition of measures. ATM identified the injurious effects as:

- lost sales volumes;
- lost market share;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced capital investment;
- reduced research and development expenditure;
- reduced return on investment;
- reduction in capacity utilisation for like goods;
- write-down of goodwill associated with the HSS business;
- reduction in employment levels; and
- reduced attractiveness to re-invest.

After consideration of the application, an investigation was initiated on 21 July 2014, and public notification of the initiation of the investigation was published in *The Australian* on that day.

Anti-Dumping Notice (ADN) No. 2014/49 refers to the initiation of the investigation, and is available on the public record for this investigation at www.adcommission.gov.au.

The investigation period examined for the purpose of assessing dumping is 1 July 2013 to 30 June 2014. Injury analysis commenced from 1 July 2011 for the purpose of analysing the condition of Australian industry.

1.3.3 Preliminary affirmative determination

³ In December 2014, the Minister for Industry became the Minister for Industry and Science.

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The Commissioner, after having regard to the application, submissions and other relevant information, was satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of HSS exported to Australia from Thailand, and made a preliminary affirmative determination (PAD) to that effect on 16 March 2015.⁴ PAD No. 254 contains details of the decision and is available on the public record.

To prevent material injury to the Australian industry occurring while the investigation continues, securities are being taken in respect of any interim dumping duty that may become payable in respect of HSS exported to Australia from Thailand, entered for home consumption on or after 16 March 2015. On publication of a dumping duty notice, securities taken will be converted to interim dumping duty.

1.4 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows, place on the public record a Statement of Essential Facts (SEF) on which the Commissioner proposes to base a recommendation in relation to the application.⁵

In formulating the SEF, the Commissioner must have regard to the application, and any submissions that are received by the Commission within 40 days of the date of initiation of the investigation.⁶ The Commissioner may also have regard to any other matters considered relevant.⁷

The public notice of the initiation advised that the SEF for the investigation would be placed on the public record by 10 November 2014. The Parliamentary Secretary under section 269ZHI of the Act extended the deadline for the publication of the SEF for the investigation to 6 February 2015 and then further extended deadline to 9 March 2015 and 28 May 2015. Anti-Dumping Notices 2014/125, 2015/15 and 2015/35 were issued on 10 November 2014, 6 February 2015 and 10 March 2015 respectively, notifying the decisions to extend the due date of the SEF.

SEF No. 254 (SEF 254) was placed on the public record on 28 May 2015. Interested parties were invited to make submissions to the Commission in response to SEF 234 within 20 days of it being placed on the public record. The Commissioner is not obliged to have regard to a submission made in response to this SEF received after this date, if to do so would prevent the timely preparation of the final report.⁸

1.5 Report 254

In formulating REP 254, the Commissioner must have regard to the application, any submissions concerning the publication of the dumping duty notice to which the

⁴ Section 269TD

⁵ Subsection 269TDAA(1)

⁶ Subsection 269TDAA(2)(a)

⁷ Subsection 269TDAA(2)(b)

⁸ Subsection 269TDAA(3)

Commissioner has had regard to for the purpose of formulating SEF 254, SEF 254 and any submission in response to SEF 254 received by the Commission within 20 days of the publication of SEF 254.⁹ The Commissioner may also have regard to any other matters considered relevant.¹⁰

1.6 Findings and conclusions

The Commissioner has made the following findings and conclusions based on available information provided during the course of the investigation.

1.6.1 The goods and like goods (Chapter 3)

The Commission considers that locally produced HSS is like to the goods the subject of the investigation.

1.6.2 Australian industry (Chapters 4)

The Commission is satisfied there is an Australian industry producing 'like goods' to the goods the subject of the investigation.

1.6.3 Australian market (Chapter 5)

The Australian market for HSS is predominately supplied by locally produced HSS and imports from Thailand, Taiwan, Korea, China, India, and Japan; with small volumes of imports from other countries.

1.6.4 Dumping (Chapter 6)

The Commission's assessment indicates that:

- HSS has been exported to Australia from Thailand in the investigation period at dumped prices;
- the margin of dumping was not negligible; and
- the volume of dumped goods was not negligible.

The dumping margins determined are set out in Table 1 below:

Exporters	Dumping margin
Sahathai Steel Pipe Public Company Limited (Saha Thai)	5.7%
Pacific Pipe Public Company Limited (Pacific Pipe)	15.1%
Samchai Steel Industries Public Company Limited (Samchai)	19.8%
Uncooperative / all other exporters	29.7%

Table 1: Dumping margin summary

⁹ Subsection 269TEA(3)(a)

¹⁰ Subsection 269TEA(3)

1.6.5 Economic condition of the Australian industry (Chapter 7)

The Commission has assessed that the Australian industry producing like goods has suffered injury in the form of:

- price suppression;
- reduced profits and profitability;
- reduced domestic revenues;
- reduced capital investment;
- reduced return on investment;
- write-down of goodwill associated with the HSS business;
- reduced research and development expenditure;
- reduced production and capacity utilisation; and
- reduced employment.

1.6.6 Has dumping caused material injury? (Chapter 8)

The Commission is satisfied that dumping of HSS exported from Thailand caused material injury to the Australian industry producing like goods.

1.6.7 Will dumping and material injury continue? (Chapter 9)

The Commission is satisfied that dumping and material injury will continue if interim dumping duties are not imposed.

1.6.8 Non-injurious price (Chapter 10)

The Commission has made the assessment that the non-injurious price (NIP) can be determined by setting the unsuppressed selling price (USP) equal to ATM's cost to make and sell (CTMS) during the investigation period, uplifted by profit from ATM for the period January to September 2008, a period determined as unaffected by dumping.

The Commission has compared the NIP with the calculated weighted average normal values for each of the cooperating exporters and determined that the NIP will not be the operative measure for exports of HSS from Thailand. It was observed that the corresponding NIP was higher than the normal values for all exporters from Thailand.

1.6.9 Proposed measures (Chapter 11)

For imports of HSS from Thailand, the Commission recommends that dumping duties be imposed in the form of ad valorem method (i.e. a percentage of export price) for all exporters.

The Commission recommends that dumping duties be imposed in respect of HSS exported from Thailand at the effective rates outlined in Table 2 below.

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Exporter / Manufacturer	Effective Rate of Duties	Duty Method
Saha	5.7%	Ad valorem
Pacific Pipe	15.1%	Ad valorem
Samchai	19.8%	Ad valorem
Uncooperative / all other Exporters	29.7%	Ad valorem

Table 2: Effective rate of duties and duty methods

2 BACKGROUND

2.1 Initiation

On 10 June 2014, ATM lodged an application requesting that the Minister publish a dumping duty notice in respect of HSS exported to Australia from Thailand.

ATM alleges that the Australian industry has suffered material injury caused by HSS exported to Australia from Thailand at dumped prices. ATM claims that material injury in respect of HSS from Thailand commenced in June 2012 following the imposition of anti-dumping measures on exports from China, Korea, Malaysia and Taiwan. Following the imposition of measures, ATM observed an increase in the goods exported from Thailand. ATM identified the injurious effects as:

- lost sales volumes;
- lost market share;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced capital investment;
- reduced research and development expenditure;
- reduced return on investment;
- reduction in capacity utilisation for like goods;
- write-down of goodwill associated with the HSS business;
- reduction in employment levels; and
- reduced attractiveness to re-invest.

After consideration of the application, an investigation was initiated on 21 July 2014, and public notification of the initiation of the investigation was published in *The Australian* on that day.

Anti-Dumping Notice No. 2014/59 refers to the initiation of the investigation, and is available on the public record at the Commission's website.

2.2 Previous cases

Several investigations, (including reinvestigations, reviews and continuation 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 investigation on HSS was Investigation 177. On 19 September 2011, Australian Customs and Border Protection Service (ACBPS) initiated an investigation into the alleged dumping of HSS exported to Australia from China, Korea, Malaysia, Taiwan

and Thailand and the alleged subsidisation of HSS exported from China.

On 6 June 2012, ACBPS terminated the countervailing investigation in so far as it related to the Chinese exporters Huludao City Steel Pipe Co., Ltd and Qingdao Xiangxing Steel Pipe Co., Ltd, and terminated the dumping investigation into Thailand.

As a result of its investigation, ACBPS recommended to the then Minister for Home Affairs that:

- HSS exported from China, Korea, Malaysia and Taiwan had been dumped;
- HSS exported from China incurred a benefit from the receipt of countervailable subsidies; and
- the Australian industry manufacturing like goods had suffered material injury as a result.

These recommendations were contained in *International Trade Remedies Branch Report No.177 – certain hollow structural sections from the People’s Republic of China, the Republic of Korea, Malaysia, Taiwan and 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.

Other previous investigations on HSS are discussed in **Attachment 1**.

2.3 Preliminary affirmative determination

On 16 March 2015, in accordance with subsection 269TD(1) of the Act, the Commissioner made a PAD that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of HSS exported to Australia from Thailand and gave public notice of this determination under subsection 269TD(4)(a) of the Act.

In making the PAD, the Commissioner had regard to the application, submissions received within 40 days after the date of initiation of the investigation, and other matters considered relevant.¹¹ PAD 254 contains details of the decision and is available on the public record.

To prevent material injury to the Australian industry occurring while the investigation continues, securities are being taken pursuant to section 42 of the Act in respect of any interim dumping duty that may become payable in respect of HSS from Thailand entered for home consumption on or after 16 March 2015.

¹¹ Subsection 269TD(2)

2.4 Statement of essential facts 254

Pursuant to section 269ZHI of the Act, the Commission sought, and was granted by the Parliamentary Secretary, three extensions to publish SEF 254.

The details and reasons for the extensions are outlined in ADN Nos. 2014/125, 2015/15 and 2015/35, which are available on the Public Record.

SEF 254 was published on 28 May 2015 and securities were amended on 1 June 2015 to reflect the revised dumping margins which ranged from 5.7 to 29.7 per cent.

Interested parties were invited to make submissions to the Commission in response to SEF 254 within 20 days of SEF 254 being placed on the Public Record. Non-confidential versions of all submissions received are available on the Public Record for this investigation.

2.5 Report 254

In formulating this report to the Parliamentary Secretary, the Commissioner has had regard to:

- the application;
- submissions concerning publication of a dumping duty notice to which the Commissioner had regard to for the purpose of formulating SEF 254;
- SEF 254;
- submissions in response to SEF 254 received by the Commission within 20 days after it was placed on the Public Record; and
- other matters considered relevant.

2.6 Submissions received from interested parties

The Commission has received a number of submissions from interested parties during the course of the investigation. Each submission has been considered by the Commission in reaching the conclusions contained within this report. The submissions received are listed in **Attachment 2**.

3 THE GOODS AND THE LIKE GOODS

3.1 Findings

The Commissioner considers that locally produced HSS is like to the goods under consideration.

3.2 Legislative framework

Subsection 269TC(1)(b) of the Act provides that the Commissioner shall reject an application for a dumping duty notice if, 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 making this assessment, the Commissioner firstly determined that 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. The Australian industry must however 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 Goods description

The goods the subject of this investigation (the goods), 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

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than plain ends (such as threaded, swaged and shouldered) are also included within the goods coverage.

Excluded goods

The following categories of HSS are excluded from the application:

- *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

The application stated that the goods are classified under the following tariff classifications and statistical codes:

- *7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);*
- *7306.50.00 (statistical code 45);*
- *7306.61.00 (statistical codes 21, 22, 25 and 90); and*
- *7306.69.00 (statistical code 10).*

Based on information provided in the application, ACBPS Tariff Policy and Implementation Branch confirmed that the goods are correctly classified to tariff subheadings:

- *7306.30.00: circular hollow sections;*
- *7306.61.00: rectangular or square hollow sections;*
- *7306.69.00: other non-circular cross-sections; and*
- *7306.50.00: other circular cross-sections of other alloys of steel,*

in Schedule 3 to the *Customs Tariff Act 1995*.

The goods exported to Australia from Thailand under the Thailand Free Trade Agreement are free from duty as of 1 January 2010.

The Commission notes that there are numerous Tariff Concession Orders applicable to the relevant tariff subheadings.

3.5 Claims by interested parties

The Commission has received a submission from Saha Thai in response to SEF 254 on 17 June 2015.¹² In its submission, Saha Thai alleges that ATM's claim to be a producer of hot dipped galvanised (HDG) circular products in the "ordinary course of trade" is deceptive and misleading. Saha Thai also submits that it is of the view that ATM is incapable of producing rectangular hollow sections (RHS) beyond 800mm.

During its verification visit, Commercial Metals Pty Ltd (CMC) noted that in this dumping investigation, the applicant (ATM) included square and rectangular goods up to and including 950mm in perimeter. CMC claimed that ATM's local production could achieve a perimeter of only 600mm and questioned the inclusion of goods up to 950mm. CMC claimed that larger size square and rectangular HSS are used in structural applications and would not be able to be replaced with products manufactured by the Australian industry, and should be excluded from the goods under consideration.¹³

Similarly, ThyssenKrupp Mannex Pty. Ltd. (TKM) also claimed that there were certain sizes that Australian industry did not produce but were covered in the application.¹⁴

3.5.1 Verification of Australian industry's manufacturing capabilities

During the verification visit to ATM, the verification team questioned ATM's ability to manufacture all the sizes of HSS products that are covered in the application. ATM stated that it manufactures RHS up to and including 800mm perimeter. ATM further explained that the next standard size for RHS was 1000mm. ATM explained that 950mm was chosen in the application to ensure that RHS having perimeters slightly larger than 800mm would not be imported in an attempt to circumvent any measures that may result from this investigation. ATM also stated that it was capable of manufacturing CHS up to and including 165mm outer diameter which is the size limit sought for CHS in its application. To support its claim, ATM provided the verification team with an operational capabilities table showing all mills, slitters and their manufacturing capabilities and capacities in all ATM facilities. This table is available at **Confidential Attachment 3**.

At the verification visit, the Commission also queried ATM's inclusion of HDG pipes in the application. ATM confirmed that in August 2011, it mothballed its Acacia Ridge zinc galvanising bath, and has subsequently sub-contracted the zinc coating of the black/bare HSS it manufactures at its Acacia Ridge plant. ATM advised that ATM's Duragal® and Duragal Plus® products can be and has been used as a substitute for HDG CHS. To support this claim, ATM provided a number of examples where ATM's Duragal® and Duragal Plus® products were used as a substitute for HDG products.

The Commission enquired about substitutability of Duragal® and Duragal Plus® for HDG in different environments. To further support its substitutability claims, ATM provided a

¹² File 38 in electronic public record

¹³ File 17 in electronic public record

¹⁴ File 28 in electronic public record

document called Duragal Painting and Corrosion Protection Guide. ATM provided a table called Corrosion Life of Unpainted Duragal in AS/NZS 2312:1994 Atmospheric Environments on page 7 of this document, reproduced below:

**Corrosion life of Unpainted DuraGal® in AS/NZS 2312
Atmospheric Environments**

Atmospheric Classification	Recommended Corrosion Protection System Options		
	Short Term 2-5 Years	Medium Term 5-10 years	Long Term 10 - 20 yrs
Mild	Suitable	Suitable	Suitable
Moderate	Suitable	Suitable	Suitable
Tropical*	Suitable	Suitable	Suitable
Industrial	Unsuitable	Unsuitable	Unsuitable
Marine	Suitable	Unsuitable	Unsuitable
Severe Marine	Unsuitable	Unsuitable	Unsuitable

* Not suitable when affected by salt spray

Table 3: Corrosion Life of Unpainted Duragal in AS/NZS 2312 Atmospheric Environments.

ATM explained that Duragal® / DuraGal Plus® both provide sufficient corrosion protection for many applications where HDG has traditionally been used. ATM submitted that its Duragal® and Duragal Plus® is only unsuitable in a small proportion of applications, for example in a marine environment over a medium term. ATM further explained that it is of the view that such applications make up only a very small proportion of the market for HSS products and that ATM’s HDG products galvanised by external process are available for such applications.

3.6 Like goods assessment

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.

The Commission further observed that ATM had the capacity to manufacture all the products covered in its application with the exception of HDG HSS and RHS between 800mm and 950mm. The Commission understands that ATM manufactures black CHS and outsources batch galvanising of its products locally. The Commission also observed that ATM had significant volumes of RHS sales of products that it produced between 600mm and 800mm perimeters.

The Commission has determined that ATM undertakes at least one substantial process of manufacture in producing HSS, including HDG, in Australia, and therefore that there is an Australian industry producing like goods.

The Commission considers that ATM, a member of the Australian industry, produces goods that are like to the goods under consideration for the following reasons:

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- physical likeness - the goods are produced in similar grades, weights, standards and appearance;
- commercial likeness - the goods directly compete with Australian produced goods and are interchangeable. The pricing behaviour in the market indicates that the imported goods and the like goods produced by Australian manufacturers are completely interchangeable. The goods are sold to the same types of end users (distributors, fabricators and retailers) and for the same purposes and end uses;
- functional likeness - the goods are used to perform the same function and have the same end-use; and
- production likeness - the goods are manufactured in a similar process.

Having regard to the above, the Commission is satisfied that the Australian industry produces like goods to the goods the subject of the application, as defined in subsection 269T(1).

If like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade, the Commission notes that an exemption from anti-dumping measures may be granted on application.

4 THE AUSTRALIAN INDUSTRY

4.1 Finding

The Commission has found that there is an Australian industry consisting of ATM, Orrcon Steel Pty Ltd (Orrcon) and Australian Pipe and Tube Pty Ltd (APT) that produce like goods in Australia.

4.2 Australian industry producing like goods

Subsection 269T(2) specifies that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Subsection 269T(3) requires that for 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.

In its application, ATM relied on ACBPS' previous findings in Investigation 177 in asserting that HSS manufactured in Australia is 'like goods' to imported HSS from the nominated countries. ATM identifies itself, Orrcon and APT (formerly Independent Tube Mills) as the members of Australian industry producing like goods. Orrcon, in its submission¹⁵ received on 13 October 2014 confirmed that it manufactures like products.¹⁶ APT did not comment on this investigation.

In support of its claims ATM submitted a product brochure listing the numerous types of HSS produced and sold by ATM.

The Commission has inspected ATM's Newcastle plant and observed the production process and dispatch facility. The Commission observed the production process as follows:

- Raw material feed of hot-rolled coil (HRC) which are generally black/uncoated or pre-galvanised are delivered to ATM by its suppliers.
- HRCs are loaded into a slitter and uncoiled then slit to various widths, edges trimmed, then re-rolled into smaller slit coils ready for use in the pipe and tube mills.
- The slit coil is then loaded into an accumulator where it is unrolled and fed into a mill for formation into pipe and tube. As the loaded coil ends, the following coil is butt welded to the preceding coil, and the accumulator allows a continuous flow of coil into the production process.
- If the end product will be coated internally, the internal coating is applied at this stage before the forming process. The slit coil is then cold formed through a series of rolls into a circular pipe. The pipe is welded along the seam, using an electric resistance welding process, into a continuous hollow round tubular shape.

¹⁵ File no 8 in the case's electronic public record

¹⁶ <http://www.adcommission.gov.au/cases/Documents/008-Submission-Australianindustry-Allparties.pdf>

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- The round tubular pipe is then further formed through rollers into square, rectangular and other shapes/cross sections as required (or left circular).
- The product is surface-finished by applying various protective coatings such as paint, varnish or oil. Galvanised HSS, made from pre-galvanised HRC is repair-galvanised along the weld line.
- Each length of HSS is given a unique identifier number¹⁷ and date and time stamped, cut to length, bundled and placed in racks ready for storage or dispatch to customers.
- The ends of the bundled HSS are painted with a coded colour to identify its gauge (wall thickness).¹⁸

A diagrammatic summary of ATM's Newcastle production process is attached to this report as **Confidential Attachment 4**.

The Commission has observed that ATM manufactures a comprehensive range of HSS, in various shapes (rectangular (RHS), square (SHS), circular (CHS), oval and others), finishes, sizes (diameters and perimeters), gauges (wall thicknesses), lengths and grades. Therefore, the Commission considers that ATM undertakes at least one substantial process of manufacture in producing HSS in Australia. As a result, the Commission is satisfied that there is an Australian industry producing like goods.

¹⁷ To satisfy traceability requirements of AS/NZ 1163 standard.

¹⁸ Except N.O.P. (no oil or paint) products.

5 AUSTRALIAN MARKET

5.1 Finding

There is an Australian market for HSS, which the Commission estimates was approximately 380,000 tonnes during the investigation period (1 July 2013 to 30 June 2014).

5.2 Background

The Commission understands that the Australian HSS market is supplied from local production and imports. Apart from the applicant, the only other known members of the Australian industry are Orrcon and APT.¹⁹

The Commission identifies 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 and Taiwan. An analysis of the ACBPS import database indicates that other sources of import supply include Vietnam, United Arab Emirates, South Africa and New Zealand.

5.3 Market Structure

5.3.1 Australian Producers

As discussed in section 4.2, there are three Australian producers of HSS. The application was lodged by ATM on behalf of the Australian industry producing HSS. Orrcon has publicly indicated its support of the application, while APT did not express its support or objection.

Of these entities, ATM and Orrcon accounted for more than an estimated 98 per cent of the Australian production of like goods during the investigation period.

ATM's sales of its own production accounted for an estimated 60 per cent of sales by Australian industry members (with the majority of remaining sales by the Australian industry being made by Orrcon). ATM estimated that its own sales accounted for approximately 30 per cent of the total Australian market.

The Commission requested and received information from ATM during the investigation supporting this position.

5.3.2 Importers

Following the initiation of the investigation, the Commission performed a search of ACBPS' import database and identified potential importers of HSS from Thailand. Six of these importers were identified as 'major' importers.

¹⁹ OneSteel Oil & Gas Pipe Pty Ltd. (a division of former OneSteel now known as Arrium Ltd) was considered to be member of the Australian HSS Industry however ceased production on 31 May 2012.

Letters were sent to the two 'minor' importers informing them of the investigation and inviting submissions to the investigation. The major importers were sent Importer Questionnaires.

The Commission undertook verification visits to the following importers:

- Commercial Metals Pty. Ltd (CMC);
- ThyssenKrupp Mannex Pty Ltd.(TKM);
- Marubeni-Itochu Steel Oceania Pty. Ltd. (MISO); and
- Stemcor Australia Pty. Ltd. (Stemcor).

The Commission estimates that the above companies collectively accounted for more than 95 per cent of the volume of the goods imported from Thailand during the investigation period.

5.4 Market size and share

In its application, ATM estimated the Australian HSS market size from FY2010/11 to FY2013/14 using its own sales volumes, Australian Bureau of Statistics' import statistics and information from the Thai Customs' website.

The sales data submitted by ATM in relation to its own sales has been verified by the Commission, as outlined in the *Australian Industry Verification Report 254* (available on the Public Record). This sales data was found to be complete, relevant and accurate.

For the purposes of its Consideration Report for the investigation, the Commission compared the import volumes in the application to data in the ACBPS import database for the relevant tariff classification and statistical code. This analysis showed that import volumes listed in the ACBPS database was similar to the ABS data relied upon by ATM. The Commission considered the ABS data to be reasonably accurate for the purposes of its Consideration Report.

Since initiation of the investigation, the Commission has found that the ACBPS data (and the ABS data utilised by ATM) also includes importations of:

- i. stainless steel hollow structural sections;
- ii. cold drawn hollow structural sections;
- iii. other products that are not "the goods" the subject of this investigation; and
- iv. a number of transactions that appear to have unreasonable volumes or unit prices due to decimal errors in imports declarations submitted by the customs brokers.

Therefore, the Commission sought to cleanse the data to by eliminating the imports transactions which appear to be not the goods. The Commission considers that the cleansed data in ACBPS' import database, which was cross checked during the importer and exporter verification visits, provides a reasonable estimate of import volumes.

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Figure 1 below depicts the Australian HSS market volume and relative market shares of Australian industry, Thai imports and other “cleansed” imports from ACBPS database.

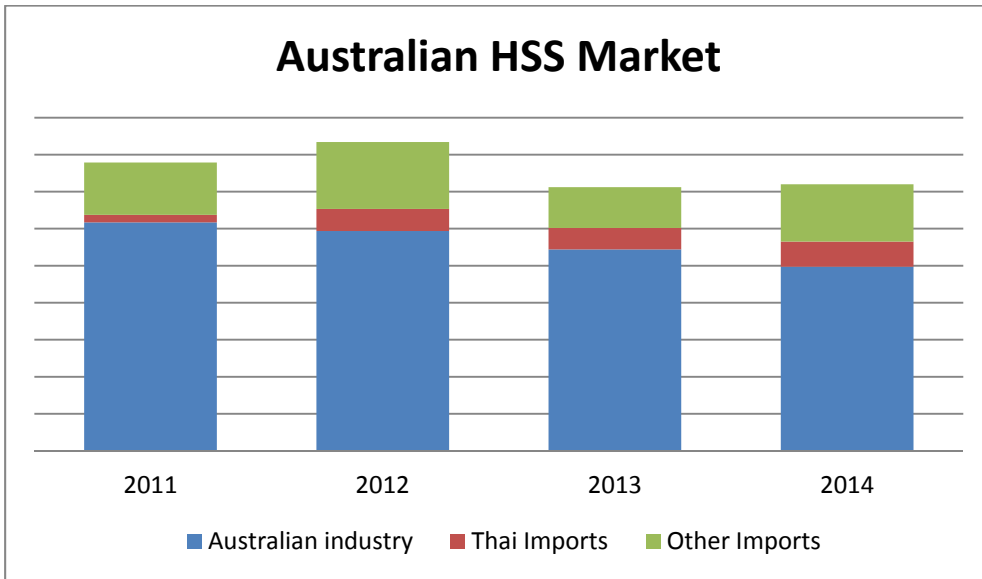


Figure 1: Australian HSS market volume and shares

6 DUMPING INVESTIGATION

6.1 Findings

The Commission finds that certain HSS exported to Australia from Thailand during the investigation period was dumped and that the volume of dumped goods and the margins of dumping were not negligible.

The Commission's comparison of dumped volumes of HSS exported from Thailand with the total volume of HSS imports over the investigation period is at **Confidential Appendix 1**.

6.2 Introduction

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 section 269TAB and section 269TAC of the Act respectively.

This chapter explains the results of the investigation by the Commission into whether HSS was exported from Thailand at dumped prices during the investigation period.

6.3 Exporters

At the commencement of the investigation, the Commission contacted all exporters of the goods within the relevant tariff subheading for HSS (see section 3.4), as identified in the ACBPS import database.

6.3.1 Exporter Questionnaires

The Commission contacted each identified exporter of the goods and invited them to complete an Exporter Questionnaire, which requested information necessary to determine whether goods were exported at dumped prices.

The Exporter Questionnaire sought information regarding the exporters' commercial operations and the goods exported to Australia, as well as information regarding the exporters' foreign and domestic sales, economic and financial details and relevant costing information.

The Commission received questionnaire responses that were assessed as being substantially complete from:

- Saha Thai;
- Pacific Pipe; and
- Samchai.

6.3.2 Verification of data

The Commission conducted a verification visit of Saha Thai and a truncated verification of Samchai. Pacific Pipe has had data verified previously on two occasions. Data provided

by Pacific Pipe in response to the Exporter Questionnaire relevant to this investigation was cross checked against previous verified data and was considered reasonable for the purpose of calculating a dumping margin in this investigation.

The verification visit reports for each of the visited cooperating exporters are available on the Public Record.

Individual dumping margins were calculated based on verified and unverified information for each of the cooperating exporters above.

6.4 Sahathai Steel Pipe Public Company Limited

6.4.1 Responses to SEF 254

The Commission received a number of submissions from interested parties in relation to the methodology used in Saha Thai's dumping margin calculations in SEF 254. The submissions raised the following issues:

- whether a duty drawback adjustment is warranted; and
- whether the dumping margin shall be calculated on free on board (FOB) or ex-works basis.

6.4.1.1 Duty drawback

In SEF 254, the Commission stated:

Saha Thai provided new evidence in support of its duty drawback adjustment claim a short time before the due date for SEF. The Commission has been unable to consider Saha Thai's new information prior to the publication of the SEF. However, the Commission calculates that the impact of duty drawback adjustment will be material in Saha Thai's resulting dumping margins. In assessing the new information, the Commission will consider whether the duty paid on imported HRC modified domestic and/or export price(s).²⁰

Saha Thai's Submission

On 17 June 2015, Saha Thai provided three additional submissions²¹ defending its eligibility for the duty drawback adjustment. Below are the arguments raised in Saha Thai's submissions:

- Products that are sold in the Thai domestic market cost more to produce than those sold in export markets because they are either made using imported HRC that is not exempt from the normal Thai customs duty; or they are made using domestically produced HRC that are higher priced because of the duties.

²⁰ Anti-Dumping Commission, Statement of Essential Facts 254, pg 24

²¹ Files 38, 39 and 40 in the case's electronic public record

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- Saha Thai's accounting records do not reflect the cost difference because the generally accepted accounting principles in Thailand requires Saha Thai to have a single cost figure for each specific type of goods in inventory.
- Products sold in the Thai domestic market are priced higher in order to recover the duty-related costs and Thai domestic prices are higher than Australian prices for the matching group of products.
- Import duties on HRC have an effect and impact on normal value considerations, and the evidence for this should simply be considered 'evidential'.
- The ADC requires that due allowance be made in each case, on its merits, for differences which "affect price comparability" specifically, under section 269 TAC(8), where the domestic and export prices are modified in different ways by taxes.

ATM's Submission

In response to Saha Thai's submissions in relation to the duty drawback adjustment, ATM provided a submission on 25 June 2015.²² In its submission, ATM argues that:

- In its exporter questionnaire response, Saha Thai stated that there were no differences in costs for domestic and export sales and stated that costs for both domestic and export sales were actual unit costs.
- It was open to Saha Thai to answer the exporter questionnaire in a manner that ensured transparency and provided a basis for legitimate consideration of a possible adjustment to normal value. Its failure to do so supports the view that, at the time of responding to the exporter questionnaire, Saha Thai did not consider that cost differences, if any, had modified domestic and export prices in different ways.
- Saha Thai's domestic prices cannot be used to support a claim for an adjustment based on alleged cost differences as such a claim ignores the factors such as supply, demand, economic conditions, profit and market power in addition to cost, that influence the formulation of prices in particular markets.
- Saha has been unable to adequately demonstrate that a price differential is evident in domestic sales of HSS produced from imported and locally source HRC. As Saha cannot adequately substantiate cost differences between the domestic and exported goods, Saha Thai's claim for adjustment for duty drawback must fail.

6.4.1.2 The Commission's duty drawback consideration

The Commission has assessed Saha Thai's and ATM's submissions and all other relevant information available.

Subsection 269 TAC(8)(c) of the Act provides that such an adjustment to normal value is only allowable where it established that normal value and export price of like goods are

²² File 42 in the case's electronic public record

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modified in different ways by taxes or the terms or circumstances of the sales to which they relate. That is, an adjustment should only be allowed when price comparability of domestic and export sales have been affected.

Therefore, in order to decide whether an adjustment is warranted, the Commission is required to establish whether the duties paid for the imported HRC that is used in manufacturing of domestically sold HSS has modified Saha Thai's pricing of like goods sold on the domestic market in contrast to the goods exported.

To support its claim, Saha Thai relies on:

- the cost difference between HRC produced in Thailand and imported HRC
- evidence showing that it paid duties for imported HRC that are used in the production of HSS sold in the domestic market; and
- a comparison of weighted average selling prices of like goods in its domestic market versus Australian exports prices.

The Commission has verified that Saha Thai's weighted average domestic HRC costs are higher than its weighted average imported HRC costs. Similarly, the Commission also calculated that for the matching goods, Saha Thai's weighted average domestic prices are higher than its corresponding Australian export prices. The Commission however, has continuing concerns that the selling price on the domestic market is modified when compared to export prices because of the payment of duty on imported HRC. The bases for these concerns are:

- an absence of financial records that allocates the cost of duty paid on imported HRC to HSS sold on the domestic market; and
- a pricing analysis that suggests that domestic prices are determined by market forces as opposed to cost based pricing.

These are discussed further below.

The Commission notes that, Saha Thai's accounting records do not reflect any cost difference between identical products that are domestically sold and exported.²³ In the CTMS calculations Saha Thai provided in its exporter questionnaire response, Saha Thai allocated import and anti-dumping duties it paid for imported HRC to all its products regardless of which market the end products are sold.

At the verification visit, Saha Thai was asked to remove the cost of duties paid from the CTMS²⁴ for exported HSS' and to allocate these duty payments to the CTMS of the HSS that are sold domestically. In response, Saha Thai stated that if the duties were to be allocated only on the CTMS of domestically sold HSS, then it would claim a duty drawback adjustment. Saha Thai provided the Commission with a total figure for duties paid and total HRC importation volume. However, Saha Thai subsequently amended these figures after the Commission raised concerns with the calculations, highlighting that the figures used in the calculations did not match Saha Thai's general ledger records and

²³ Saha Thai explained in its submission dated 17 June 2015 that it maintained one cost figure for models it exported and sold in domestic market in order to comply generally accepted accounting principles in Thailand.

²⁴ Saha Thai does not pay any duties for the imported raw materials it used in manufacturing of products it exported.

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production figures.²⁵ The Commission notes that, as Saha Thai's accounting records did not keep track of the source of the HRC used in production, the actual percentage of duties paid per imported HRC that is used in domestic production figure was calculated for the purpose of this investigation as opposed to for determining the price on the domestic market. Therefore, the Commission is not satisfied that Saha Thai had accurately quantified the additional duty costs it borne per unit of imported HRC used in production of HSS it sold domestically before it was requested by the Commission.

Furthermore, in order to conduct a more detailed analysis to assess Saha Thai's adjustment claim, and to gain a better understanding of the other factors affecting domestic prices in Thailand, the Commission compared domestic selling prices of all product groups Saha Thai sells to Australia (like goods) with corresponding Australian export prices and the different cost base for different types of HSS.

The Commission notes that Saha Thai's main export product group to Australia is painted structural grade Australian standard HSS. The Commission understands that the cost to produce painted HSS is higher than costs to produce unpainted HSS due to additional paint and labour costs.

The Commission calculated that, Saha Thai was selling painted structural grade Australian standard HSS on the Thai domestic market at a significant discount when compared to the price of painted structural grade Australian standard HSS exported to Australia. The Commission further calculated that Saha Thai sold unpainted finish of that product group with an 18.6 per cent premium in its domestic market when compared to its weighted average Australian export prices of structural grade Australian standard HSS products with unpainted finish.

Saha Thai previously provided the Commission with a confidential declaration from one of its prominent customers. In that declaration, Saha Thai's customer declares that the "black" -meaning unpainted- finish of structural grade Australian standard HSS command higher prices in Thai market due to market demand and explained that his company bought both painted and black finishes of the same product group from Saha Thai and paid a premium for the unpainted finish.

Based on that analysis and using the information on market preferences in Australian and Thai markets, the Commission considers that Saha Thai's domestic and export sales prices appear to be driven by market forces instead of marginal cost differences due to duties paid on imported HRC.

Accordingly, the Commission is of the view that it cannot be established that Saha Thai's domestic or Australian export prices are modified in different ways by the effects of duties. As a result, the Commission is not satisfied that a duty drawback adjustment to Saha Thai's normal value is warranted.

²⁵ When the Commission explained Saha Thai that its total HRC import volumes was not in agreement with its total production volumes, Saha Thai stated that it had other imports that did not go through its bonded warehouse and which were not included in the list of imports provided to the Commission. These direct HRC imports and duties paid for these transactions were not taken into account in the calculations during the verification visit.

6.4.1.3 Calculation of dumping margins on FOB basis

In the SEF, the Commission calculated Saha Thai's dumping margins on FOB level excluding any part of export price that relates to post-exportation charges.

Saha Thai's Submission

In its submission²⁶ dated 27 June 2015, Saha Thai requested the Commission consider treatment of its fully containerised (FCL) exports at ex-works level. In its submission, Saha Thai states that it is open to the Commission to determine a dumping duty at ex-works level and relies on a definition of "place of export" in section 154 of the Act which states that the place of export for containerised goods is where the container is packed.

ATM's Submission

In response, ATM submitted²⁷ that section 269TAB(1) of the Act defines the export price for goods exported to Australia as the "price paid or payable for the goods by the importer" but does not include any costs after exportation of the goods (i.e. freight costs). ATM argued that Saha Thai's request was inconsistent with the legislative requirements concerning the export price.

6.4.1.4 The Commission's consideration of calculation of dumping margins on FOB basis

In considering Saha Thai's request to calculate dumping margins on ex-works level, the Commission has had regard to information collected and verified during Saha Thai's exporter verification visit. At the verification visit, the Commission was satisfied that Saha Thai's domestic sales transactions include delivery to its customers around the Bangkok region. The Commission also verified that all exportation expenses, including bank charges, terminal handling, clearing expenses, port expenses, lighterage,²⁸ inland insurance and bill of lading charge are included under the 'handling and other expenses' column of the export sales spreadsheet. The Commission understands that most of Saha Thai's exports have been in break bulk shipments and a smaller ratio of exports (by volume) has been via FCL shipments. It has also been verified that when FCL exports take place, Saha Thai included containerisation expenses in its declared export expenses.

As noted in the Commission's *Dumping and Subsidy Manual*, the Commission considers that goods are exported when they leave the country of export. The Dumping and Subsidy manual further states that an ex-works price may be used for example in a situation where charges are all inclusive of local and international charges and that it is impracticable to segregate them.

Having verified that Saha Thai actually incurred these expenses in its export sales and that they are able to be separated from expenses incurred after the goods have left

²⁶ File 45 in the case's electronic public record

²⁷ File 46 in the case's electronic public record

²⁸ Transportation of goods on a barge on a river or canal

Thailand, the Commission does not consider it appropriate to depart from its standard practice. The Commission considers that a dumping margin calculation at FOB level provides a more accurate comparison of expenses incurred between domestic sales and export sales irrespective of whether the goods have been containerised before shipment.

As a result, the Commission does not agree that dumping margin calculations should be on ex-works level and considers that an FOB level calculation is necessary to be able to account for cost differences between Saha Thai's domestic sales versus Australian export sales.

6.4.2 Export price

The Commission is satisfied that:

- i. the goods been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter; and
- ii. the purchase of the goods by the importer was an arms length transaction.

Therefore, export prices for Saha Thai were established in accordance with subsection 269TAB(1)(a) of the Act, using the prices payable by the importer, by model, excluding any part of that price that relates to post-exportation charges.

Saha Thai's export price calculations are at **Confidential Appendix SAHA 1**.

6.4.3 Normal value

In comparing export models to domestic models of HSS, the Commission initially matched identical domestic models with the export models. Where there were insufficient sales of the identical model, the Commission first matched another model beginning with different impact testing requirements, then ends, then thickness range then lastly finish. In matching a model that is not identical, the Commission made specification adjustments accordingly (see Section 6.4.3 below).

Normal values were established in accordance with subsection 269TAC(1) of the Act using Saha Thai's domestic invoice prices for like goods, by model, where those sales were arms length transactions in the ordinary course of trade and in sufficient volumes.²⁹

Saha Thai's normal value calculations are at **Confidential Appendix SAHA 2**.

6.4.4 Adjustments

The Commission is satisfied that the following adjustments to normal value, in accordance with subsection 269TAC(8) of the Act, are necessary to ensure a fair comparison of normal values and export prices:

²⁹ For domestic sales to be considered suitable, the volume of domestic sales must represent at least 5 per cent of the volume of Australian sales both the aggregate level and on a model by model comparison subsection 269 TAC(14) of the Act refers.

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Domestic credit terms	Deducted cost for domestic credit terms
Domestic inland freight	Deducted cost for domestic freight
Specification adjustment	Add or deducted price extras for model differences
Export packaging	Add cost for export packaging
Export inland freight, handling and port charges	Add cost of export inland freight, handling and port charges

Table 4 – Summary of adjustments for Saha Thai

Saha Thai sells Australian Standard products on its domestic market in sufficient volumes to use in calculating a normal value. The products selected in the model matching exercise are manufactured to the same allowable weight tolerances with Saha Thai's Australian exports. Accordingly, the Commission does not consider an adjustment to normal value for weight tolerance or grade adjustment necessary to enable a fair comparison to the export price.

Calculations of adjustments for Saha Thai are at **Confidential Appendix SAHA 3**.

6.4.5 Dumping margin

The dumping margin for Saha Thai was established in accordance with subsection 269TACB(2)(a) of the Act by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole investigation period. The dumping margin in respect of HSS exported to Australia by Saha Thai for the investigation period is 5.7 per cent.

The dumping margin calculation is at **Confidential Appendix SAHA 4**.

6.5 Pacific Pipe Public Company Limited

6.5.1 Responses to SEF 254

The Commission received submissions from Pacific Pipe and ATM in relation to the methodology used in Pacific Pipe's dumping margin calculations in SEF 254. The submissions raise the following issues:

- eligibility of Pacific Pipe's domestic AS1163-C350 sales;
- adjustment for sales commissions paid to Pacific Pipe's related party;
- import duty drawback adjustment; and
- lack of on-site verification.

6.5.1.1 Eligibility of Pacific Pipe's domestic AS1163-C350 sales

In SEF 254, the Commission calculated Pacific Pipe's dumping margin by including Pacific Pipe's domestic AS1163-C350 sales in normal value calculations. The Commission considered that these sales were arms length transactions in the ordinary course of trade and in sufficient volumes to be used for normal value calculations.

Pacific Pipe's submission:

In its submission dated 15 June 2015, Pacific Pipe claims that its sales of AS1163-C350 are ineligible to be used in normal value calculations as a significant portion of its AS1163-C350 sales were not consumed by its customer in Thailand but was exported to Australia to be used by the customer's subsidiary in Australia.³⁰

Pacific Pipe also claimed that its AS1163-C350 sales were unsuitable to be used in normal value calculation as these sales do not provide a fair comparison with export prices to Australia. Pacific asserts that the prices in these sales are not representative of the domestic selling prices of like goods during the investigation period. To support its claim, Pacific Pipe raises the following issues:

- AS1163-C350 sales mainly take place in July-September 2013 quarter;
- normal values based on prices in just three months of domestic sales do not provide for a fair comparison with weighted average export prices over the investigation period; and
- Investigation 177 considered that the standard and grade to which pipe is made does not influence Pacific Pipe's domestic selling prices and that price differences are for other reasons.

Pacific Pipe also argues that it is factors other than standard and grade which have caused prices of domestic sales of AS1163-C350 to be significantly higher than those of goods of different standards and grades. In support of this argument, Pacific Pipe relies on a comparison of selling prices of different grades versus corresponding HRC costs of these products. Pacific Pipe alleges that this comparison proves that the factors other than grade differences have significantly contributed to the domestic selling price differences between different grade products.

Pacific Pipe also claims that the reason causing the domestic selling price of AS1163-C350s to be higher than that of other grades is the fact that these domestic sales in the September 2013 quarter was in very low volumes and was the only purchase by a particular customer during the investigation period.

Pacific Pipe also alleged in its submission that its AS1163-C350 sales were essentially not in sufficient volumes when compared to the total of its export sales of RHS and SHS products of the same grade and alleges that the Commission included product thicknesses as criteria for matching models for the purposes of retention of dumping margins in the PAD.

³⁰ File 36 in the case's electronic public record

ATM's Submission

ATM provided a submission³¹ on 25 June 2015 in response to Pacific Pipe's claims.

In terms of the eligibility of Pacific Pipe's AS1163-C350 sales, ATM submits that irrespective of the end-use, the AS1163-C350 grade HSS sold to the Thai fabricator involve a domestic sale in Thailand and these sales should qualify as domestic sales.

In relation to suitability of these AS1163-C350 sales, ATM submits that notwithstanding the timing, these sales have taken place within the investigation period and the Commission determined that these sales were made in ordinary course of trade. ATM therefore submitted that these sales should qualify as suitable sales for comparison purposes.

ATM contends in its submission that references to Investigation 177 and the approach followed by then Customs and Border Protection are not relevant to current investigation period. ATM is of the view that the Commission is armed with a greater understanding of sales on the Thai domestic market in the current investigation.

In relation to inclusion of product thicknesses in normal value assessment, ATM considers that the Commission has correctly calculated the volume of goods exported to Australia for comparison with like goods sold on the Thai domestic market.

6.5.1.2 The Commission's consideration on eligibility of Pacific Pipe's domestic AS1163-C350 sales

Pacific Pipe asserted in its submission that its domestic AS1163-C350 sales were ineligible to be considered in normal value calculations claiming that the majority of these products were not consumed in Thai domestic market. The sales of these AS1163-C350 products were listed in Pacific Pipe's domestic sales in its exporter questionnaire response. The Commission notes that these sales were made to four different customers and one of these customers bought the majority of the goods sold during the investigation period.

When the Commission enquired about Pacific Pipe's AS1163-C350 sales, Pacific Pipe claimed that the customer which purchased the majority of these products had eventually exported³² these products to its subsidiary in Australia and provided its customer's registration documents in Thailand showing that the company was registered as an exporter. The Commission however noted that the company is a manufacturer³³ in Thailand and its core and only business is fabricating a different end product (by using HSS extensively) in its premises. The Commission also observed that, this company

³¹ File 43 in the case's electronic public record

³² Pacific Pipe initially claimed in a confidential email sent to the case manager by its representative that these products were exported to Australia with insufficient fabrication to change the character of the pipe purchased, i.e. cut to length and holes drilled. Later, in its submission dated 3 July 2015, Pacific Pipe claimed that these products were sold to a local customer for export to its subsidy to be fabricated in Australia.

³³ Based on the information in the company's website.

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presents itself as the first manufacturer of this different end product in Thailand of its kind and states that it has two manufacturing plants in Thailand.

On the second document provided by Pacific Pipe, the Commission sighted that the company's subsidiary in Australia was in the process of being de-registered from Australian Securities and Investments Commission's records.

Subsection 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export that are arms length transactions by the exporter. Sections 269TAAD and 269TAA set out the tests for 'ordinary course of trade' and 'arms length transactions' respectively.

The Commission found that Pacific Pipe's domestic AS1163-C350 sales were arms length transactions in the ordinary course of trade and in sufficient volumes, therefore eligible and suitable to be considered in normal value determination.

With respect to whether the goods are 'consumed in the country of export' the Commission is of the view that when the goods are substantially changed so that they take on different characteristics to the point where they are no longer recognised as the goods, they are said to be 'consumed'. With respect to AS1163-C350 sales by Pacific Pipe, the Commission is of the view that Pacific Pipe did not provide any supporting evidence to support its claim that AS1163-C350 sold to its customer was subsequently exported by its customer as HSS. The information available to the Commission indicates that the AS1163-C350 sold domestically is used in the fabrication of a different end product in Thailand. The Commission considers that HSS used in fabrication of a different end product³⁴ no longer has the characteristics of the goods under consideration and accordingly have been consumed on the Thai domestic market.

The Commission notes further that if the fabricated products were exported to Australia, they would be described as something other than HSS, and exported under a different tariff classification.

In conclusion, the Commission is of the view that the sales of AS1163-350 are domestic sales. The best available evidence suggests that these products were used in fabrication in Thailand and have therefore been consumed in Thailand.

Pacific Pipe also claims that its domestic AS1163-C350 sales were unsuitable to be used in normal value calculation as these sales do not provide a fair comparison with export prices to Australia. Pacific Pipe claims that the very small volumes of sales of this product have caused the sales price to be inflated as opposed to the specific grade and standard of the product.

Subsection 269TAC(2)(a) gives direction on whether sales of like goods sold for home consumption in the country of export are relevant and suitable for the purpose of determining a price under subsection 269TAC(1). Specifically, this provision states in part that normal value cannot be ascertained under subsection 269TAC(1) when there is

³⁴ Nature of the fabrication and fabricated product are not disclosed due to confidentiality of information.

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an absence or low volume of relevant sales. Low volume of like goods sold for home consumption is defined in section 269TAC(14) as being less than five per cent of the total volume of goods the subject of application that are exported to Australia by the exporter.

The Commission is satisfied that the domestic sales of AS1163-C350 are greater than five per cent of the volume of the matching goods exported to Australia by Pacific Pipe.

In order to test Pacific Pipe's allegations about its AS1163-C350 prices being higher than normal due to the low volume of sales, the Commission compared Pacific Pipe's domestic prices of AS1163-C350 with the verified sales prices of the same product group from other Thai exporters. The comparison showed that all Thai exporters' AS1163-C350 sales prices were very close to each other. That supports the Commission's understanding that the prices that were charged by Pacific Pipe to its customers reflect normal market prices and should not be excluded from normal values based on claimed special circumstances of these sales. This price comparison is in **Confidential Appendix PACIFIC SUB 1**.

The Commission is of the view that standard and grade of HSS are significant attributes of the products which are extensively used in how the products are defined and marketed. The Commission considers that there are significant differences in material characteristics and allowable tolerances between products manufactured to different standards (i.e. TIS107 standard versus AS1163-C350 standard). The Commission is of the view that it is the balance between supply and demand in a market which eventually determines the market prices of products. Comprehensive evidence before the Commission suggests that otherwise similar products manufactured to different standards often meet with different levels of demands in different markets and attract different prices. While these different pricing points are evident in the sales data collected by the Commission from different suppliers in Thai market, the Commission is of the view that, Pacific Pipe's claim about the price differences being due to reasons other than standard and grade is not supported by the evidence available.

The Commission understands that there is a market for Australian standard HSS in Thailand and these Australian standard products are being favoured by certain high value adding industries. The Commission is of the view that the demand from high value adding industries drives Australian standard products prices higher in Thailand.

In order to maintain price comparability, where there were no sales of particular models in a month, the Commission adjusted normal values with respect to monthly changes in prevailing HRC monthly prices in Thailand during the investigation period. As a result, the Commission considers that sufficient volumes of these products were sold during the investigation period and the timing of these sales does not impact price comparability.

The Commission also notes that product thicknesses have been used as a criterion in model matching for all exporters from Thailand and there is substantial evidence showing thickness affects price comparability. The Commission observes that price extras are charged by exporters for different thicknesses of otherwise identical products. The Commission's model matching methodology has been established in the early stages of the investigation and all exporters have been made aware of the approach followed by the Commission. Model matching criteria for all exporters assessed are clearly explained in normal value sections of this report for each exporter. As a result, the Commission

rejects Pacific Pipe's claim that the Commission introduced thicknesses in model matching in order to maintain Pacific Pipe's calculated dumping margin.

6.5.1.3 Adjustment for sales commissions paid to Pacific Pipe's related party

In the dumping margin calculations for the purposes of SEF, the Commission did not consider that an adjustment for commissions paid by Pacific Pipe to its related party warranted an adjustment.

Pacific Pipe's submission

In its submission, Pacific Pipe argues that an adjustment to normal value should be allowed for the difference of commissions paid to its related party Tamose Trading Co Ltd (Tamose).³⁵

Pacific Pipe asserts that the Commission has evidence that these commissions payable to Pacific Pipe's related party, Tamose, are included in Pacific Pipe's general ledger selling expenses as "Intercompany Commission".

Pacific Pipe claims that domestic prices paid for like goods and the export price of the goods exported to Australia are modified in different ways by the circumstance of direct selling expenses incurred in domestic sales including a 2 per cent commission paid to Tamose and direct selling expenses incurred in export sales to Australia including a 0.5 per cent commission paid to Tamose.

Pacific Pipe also submits that the fact that these commissions are paid to a related party (Tamose) and considered intercompany payments have no relevance to the consideration of whether adjustments are necessary to enable fair comparison of export price and normal value vide Section 269TAC(8) of the Act.

ATM's Submission

In its submission dated 25 June 2015, ATM submitted that there are no grounds for recognising sales commissions paid for activities undertaken internally within Pacific.³⁶ The Commission is therefore correct in rejecting claims for sales commission (for domestic and export activities) adjustments paid to Pacific's related entity Tamose.

6.5.1.4 The Commission's consideration on adjustment for sales commissions paid to Pacific Pipe's related party

Subsection 269TAC(8) allows adjustments to be made to the normal value where particular differences exist between export prices and normal value that affect price comparability. Pacific Pipe has claimed that an adjustment should be made to account for a sales commission paid to a related trading company.

³⁵ File 36 in the case's electronic public record

³⁶ File no 43 in the electronic public record

The Commission acknowledges that Pacific Pipe recorded the sales commissions it paid to its related party Tamose in its accounting ledgers as “intercompany commissions” and notes that Pacific Pipe’s sales expenses in its CTMS spreadsheets also included these sales commissions. The Commission notes that Tamose is identified in the verification visit report for Investigation 177 as a subsidiary company through which Pacific Pipe sells its commercial (not produced to comply with a standard) products in its domestic market.³⁷

It is the Commission’s position that if Tamose had sold any of the products that the Commission assessed as like goods to goods Pacific exported to Australia, the sales through Tamose would have been considered together with Pacific Pipe’s own sales and essentially these two companies would be considered as one entity and no inter-company payments would have been included in the CTMS.

The Commission also notes that Pacific Pipe has claimed a level of trade adjustment in its exporter questionnaire response and stated that it incurred marketing costs in its domestic market that it did not incur in its export sales to Australia. This is in contradiction of Pacific Pipe’s claim that commissions paid to Tamose is for Pacific Pipe’s use of Tamose’s sales personnel. Pacific Pipe later wanted to withdraw its level of trade adjustment claim in favour of its adjustment for commissions paid claim.

The fact that these commissions are charged in fixed rates regardless of the nature or specifics of the sales also suggests that these intercompany commission amounts have been arbitrarily determined by the related companies. In the light of the above, the Commission is of the view that there is no evidence showing that these intercompany commissions reflect the actual selling costs incurred for sales transactions and these commissions do not require an adjustment to normal value.

As a result, the Commission did not allow an adjustment for intercompany commissions paid and deducted these intercompany commissions from Pacific Pipe’s CTMS figures. The Commission has allowed Pacific Pipe’s original level of trade claim to maintain pricing comparability in domestic and export sales.

The Commission also notes that despite a recommendation in favour of an intercompany commission adjustment in the verification visit report, case management did not allow an intercompany commission adjustment in Pacific Pipe’s dumping margin calculations in Investigation 177 due to similar concerns the Commission raised in the current investigation.

6.5.1.5 Import duty drawback adjustment

In the dumping margin calculations for the SEF, the Commission did not allow for a duty drawback adjustment to Pacific Pipe’s normal values.

³⁷ This report is available under archived cases section of the Commission’s website

Pacific Pipe's submission:

Pacific Pipe claims that an adjustment should be made for the import duty drawback reported in Pacific Pipe's exporter questionnaire response because its domestic prices and prices paid for export sales are modified in different ways by the import duty paid on imports of the HRC used in the production of HSS and adjustment is necessary to enable comparison of these prices.

Pacific Pipe also submits that its domestic prices of HSS are modified by import duty payable on HRC used in the production of HSS as market prices of HRC in Thailand are essentially import parity prices.³⁸ Pacific Pipe claims that its export prices are not modified by duties paid as it receives a drawback of the import duty paid on its HRC imports.

Pacific Pipe also states that the then ACBPS's verification team in Investigation 177 was presented a report by the US Department of Commerce to the effect that the US Department of Commerce made adjustment for the duty drawback received by Pacific Pipe.³⁹

ATM's Submission

In its submission dated 25 June 2015, ATM notes ACBPS' findings in Investigation 177 on that matter and states that it agrees with the Commission's determination in SEF 254.⁴⁰

6.5.1.6 The Commission's consideration on import duty drawback adjustment

The Commission considered Pacific Pipe's adjustment claim for duty drawback it received for exported HSS. The Commission acknowledges that Pacific Pipe's records show receipt of duty drawbacks for HRC Pacific Pipe imported and used in production of HSS which it subsequently exported. In its consideration, the Commission also had regard to findings of Investigation 177. The Commission notes the verification visit report statement below:

"Most imported HRC is used in exported product and locally produced HRC is used in product sold on the domestic market. No import duty is paid in either case. We did not allow the adjustment claimed for duty drawback."⁴¹

The Commission calculated in the current investigation that Pacific Pipe's import volume of HRC is almost identical to its export volume of HSS. That calculation suggests that Investigation 177's findings remain valid and Pacific Pipe is still not paying any duties for the HRC it uses for its domestically sold or exported HSS. Therefore, notwithstanding the

³⁸ File 36 in the case's electronic public record

³⁹ As of 1 July 2013, responsibility for anti-dumping investigations transferred from ACBPS to the newly formed Anti-Dumping Commission.

⁴⁰ File no 43 in the electronic public record

⁴¹ ACBPS, Exporter Visit Report – Pacific Pipe Public Co., Ltd, January 2012 (EPR for Investigation 177) pg. 26

fact that Pacific Pipe's records shows duty drawback amounts received during the investigation period, an adjustment to normal value for the duty drawbacks received is not warranted.

6.5.2 Export price

The Commission is satisfied that:

- i. the goods been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter; and
- ii. the purchase of the goods by the importer was an arms length transaction.

Therefore, export prices were established in accordance with subsection 269TAB(1)(a) of the Act, using Pacific Pipe's export invoice prices, by model, excluding any part of that price that relates to post-exportation charges.

Pacific Pipe's export price calculations are at **Confidential Appendix PACIFIC 1**.

6.5.3 Normal value

In comparing export models to domestic models of HSS, the Commission initially matched identical domestic models with the export models. Where there were insufficient volumes⁴² of sales of the identical models, the Commission first matched another model beginning with different impact testing requirements, then finish and lastly shape⁴³ and thickness. In matching a model that is not identical, the Commission made specification adjustments accordingly.

Normal values were established in accordance with subsection 269TAC(1) of the Act using Pacific Pipe's quarterly weighted average domestic invoice prices for like goods, by model, where those sales were in the ordinary course of trade and in sufficient volumes. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to subsection 269TAC(8).

The Commission calculated Pacific Pipe's dumping margin using Pacific Pipe's AS 1163-C350 domestic sales in the model matching as explained in Section 6.5.1.2 above.

Pacific Pipe's normal value calculations are at **Confidential Appendix PACIFIC 2**.

6.5.4 Adjustments

The Commission is satisfied that the following adjustments to normal value, in accordance with subsection 269TAC(8) of the Act, are necessary to ensure a fair comparison of normal values and export prices:

⁴² For domestic sales to be considered suitable, the volume of domestic sales must represent at least 5 per cent of the volume of Australian sales both the aggregate level and on a model by model comparison subsection 269 TAC(14) of the Act refers.

⁴³ Only rectangular and square hollow sections are considered comparable.

PUBLIC RECORD

Domestic credit terms	Deducted cost for domestic credit terms
Domestic inland transport	Deducted domestic inland transport costs
Domestic handling & other costs	Deducted domestic handling & other costs
Level of trade	Deducted a level of trade adjustment to account for selling cost differences
Export inland freight	Add cost of export inland freight
Export handling cost	Add cost for export handling
Specification adjustment	Add or deducted specification adjustments between different models
Bank charges	Add cost for export bank charges
Export credit terms	Add cost of export credit terms

Table 5 – Summary of adjustments for Pacific Pipe

The Commission calculated the selling prices based on actual weights for Pacific Pipe’s domestic and export sales. The Commission is of the view that by calculating the selling prices based on actual weights rather than theoretical weights, effects of any tolerances that are allowable by different product standards are eliminated and no weight tolerance adjustment to normal value is required.

Calculations of adjustments for Pacific Pipe are at **Confidential Appendix PACIFIC 3**.

6.5.5 Dumping margin

The dumping margin for Pacific Pipe was established in accordance with subsection 269TACB(2)(a) of the Act by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole investigation period. The dumping margin in respect of HSS exported to Australia by Pacific Pipe for the investigation period is 15.1 per cent.

This dumping margin calculation is at **Confidential Appendix PACIFIC 4**.

6.6 Samchai Steel Industries Public Company Limited

6.6.1 Responses to SEF 254

In its submission dated 17 June 2015, ATM submitted that it was not clear from the verification visit report that the Commission was able to “test” the standard weights with actual weights as claimed in domestic sales by Samchai.⁴⁴ ATM therefore challenges the claim that the domestic sales by Samchai as selected for normal value purposes are representative of sales of AS1074 grade HSS pipe that possesses the same tolerances as the goods exported to Australia during the investigation period.

6.6.2 The Commission’s consideration

The Commission is satisfied that the Australian standard products sold in Thai domestic market and exported to Australia by Samchai have both been manufactured to comply with the same requirements of the standards. The Commission compared the standard product weights provided by Samchai with theoretical weights the Commission calculated using product specifications and formulas specific to product shapes and is satisfied that the standard weights provided by Samchai are reasonable. Therefore, the Commission considers that the information collected and verified during the verification visit of Samchai enables the Commission to accurately calculate Samchai’s dumping margin.

6.6.3 Export price

The Commission is satisfied that:

- i. the goods been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter; and
- ii. the purchase of the goods by the importer was an arms length transaction.

Therefore, export prices were established in accordance with subsection 269TAB(1)(a) of the Act, using Samchai’s export invoice prices, by model, excluding any part of that price that relates to post-exportation charges.

Samchai’s export price calculations are at **Confidential Appendix SAMCHAI 1**.

6.6.4 Normal value

In comparing export models to domestic models of HSS, the Commission had regard to the following characteristics of models:

- standard (AS1163 or AS1074);
- shape (square, rectangle or circle hollow sections);
- finish (black, galvanised or painted);
- end type (plain or threaded); and
- thickness.

⁴⁴ File 41 in the electronic public record

Where there were insufficient volumes of domestic sales of an identical export model, the Commission compared the export price with the next closest matching domestic model and applied an adjustment, either upwards or downwards as required, based on the export price extras.

Normal values were established in accordance with subsection 269TAC(1) of the Act using Samchai’s domestic invoice prices for like goods, by model, where those sales were arms length transactions, in the ordinary course of trade and in sufficient volumes.

Samchai’s normal value calculations are at **Confidential Appendix SAMCHAI 2**.

6.6.5 Adjustments

The Commission is satisfied that the following adjustments to normal value, in accordance with subsection 269TAC(8) of the Act, are necessary to ensure a fair comparison of normal values and export prices:

Domestic inland freight	Deducted cost for domestic freight
Specification adjustment	Add or deducted price extras for model differences
Export inland freight, handling and port charges	Add cost of export inland freight, handling and port charges

Table 6 – Summary of adjustments for Samchai

Samchai sells Australian Standard products in its domestic market in sufficient volumes. The Commission compared domestic selling prices of Samchai’s Australian Standard products with its exports prices to Australia. Accordingly, the Commission does not consider an adjustment to normal value for weight tolerance or grade adjustment is necessary to enable a fair comparison to the export price.

Calculations of adjustments for Samchai are at **Confidential Appendix SAMCHAI 3**.

6.6.6 Dumping margin

The dumping margin for Samchai was established in accordance with subsection 269TACB(2)(a) of the Act by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole investigation period. The dumping margin in respect of HSS exported to Australia by Samchai for the investigation period is 19.8 per cent.

This dumping margin calculation is at **Confidential Appendix SAMCHAI 4**.

6.7 Determination of dumping margin – uncooperative and all other exporters

The Commission is treating all exporters of HSS from Thailand in the investigation period other than Saha Thai, Pacific Pipe and Samchai as ‘uncooperative exporters’, as defined in subsection 269T(1).

The Commission examined and considered a range of options for determining export price for uncooperative and all other exporters, including:

- export price data from the ACBPS import database;
- export price data from importer visits where that data related to exports from the uncooperative and all other exporters;
- export price data from ATM’s application; and
- export price data from the cooperating exporters.

The Commission considers the most directly relevant and therefore best information available would be the export price data obtained from the cooperating exporters.

The Commission has therefore determined an export price for uncooperative and all other exporters pursuant to subsection 269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest quarterly export price of those that were established for Saha Thai, Pacific Pipe and Samchai.

The Commission has determined normal value for the uncooperative and all other exporters pursuant to subsection 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest normal value of those that were established for Saha Thai, Pacific Pipe and Samchai in the investigation period.

The dumping margin for uncooperative and all other exporters from Thailand is 29.7 per cent.

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

6.8 Volume of dumped exports

Pursuant to subsection 269TDA(3) of the Act, the Commissioner must terminate an investigation if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as a volume that is less than three per cent of the total volume of goods imported into Australia over the investigation period.

As outlined in Section 5.4, the Commission estimated the size of the Australian market which included data on total import volume of the goods. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total imported volume of the goods, the volume of dumped goods from Thailand was greater than three per cent and therefore not negligible.

7 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

7.1 Findings

Having regard to the information contained in the application and verified during the Commission's verification visit to ATM, the Commission considers that the Australian industry has experienced injury in the form of:

- price suppression;
- reduced profits and profitability;
- reduced domestic revenues;
- reduced capital investment;
- reduced return on investment;
- write-down of goodwill associated with the HSS business;
- reduced research and development expenditure;
- reduced production and capacity utilisation; and
- reduced employment.

7.2 Introduction

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 is satisfied that the verified data presented by ATM 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. A report of the Australian industry verification visit is available on the public record.

It is estimated that ATM represent more than 60 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 to be injury experienced by the Australian industry as a whole.

7.3 Legislative framework

Under subsections 269TG(1) and (2) of the Act, one of the matters that 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.

7.4 Commencement of injury, and analysis period

As specified in *Consideration Report 254*, the Commission established an injury analysis period commencing 1 July 2011. ATM claimed that HSS exported to Australia from

Thailand has caused injury to the Australian industry since June 2012 after the imposition of measures in respect of certain other countries following Investigation 177.⁴⁵

7.5 Volume effects

The Commission compared import volume estimates provided in ATM's application with data in ACBPS' import database after cleansing the data as explained in section 5.4 and sales volumes provided in the Exporter Questionnaires for the injury assessment period.

This analysis shows that while the data provided by ATM pertaining to import volumes of HSS from Thailand are reasonable, the volumes of imports of the goods from other countries are overstated with occasional decimal errors and include imports of products that are not the goods.

Therefore, the cleansed import volumes from the ACBPS database together with ATM's verified sales data have been utilised in the volume analysis below.

7.5.1 Sales Volume

ATM's verified sales volumes of its own products for all finishes of HSS over the injury analysis period are illustrated in Figure 2 below.

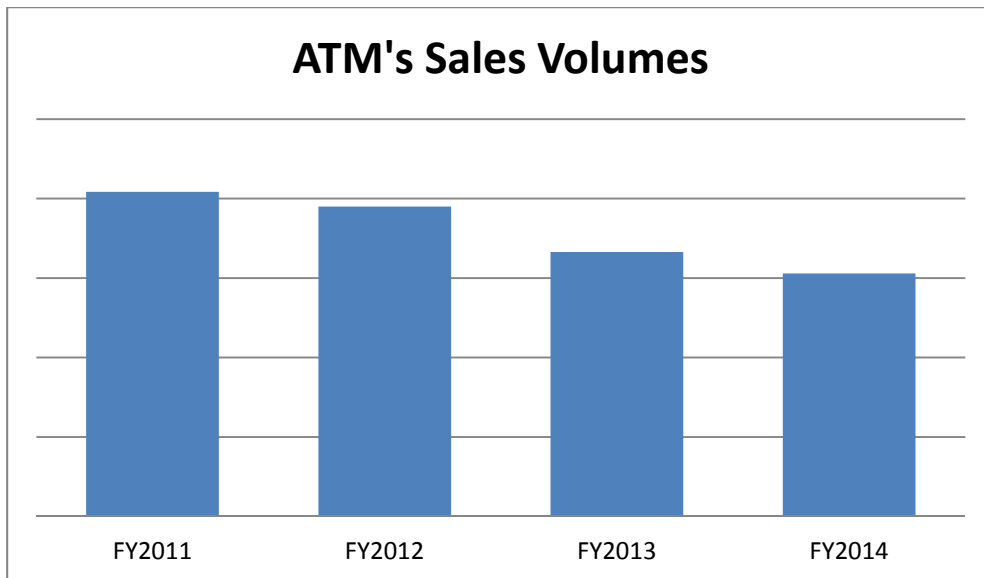


Figure 2: ATM's sales volumes of its own products for all finishes of HSS between 2011 and 2014 financial years

7.5.2 Market Share

Figure 3 below shows market share movements of the Australian industry (ATM, Orrcon and APT), imports from Thailand and imports from other countries (excluding imports by ATM) in the Australian HSS market for the period FY2010/11 to FY2013/14 based on the verified data in ATM's application and data from the cleansed ACPBS import database.

⁴⁵ As a result of Investigation 177, 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.

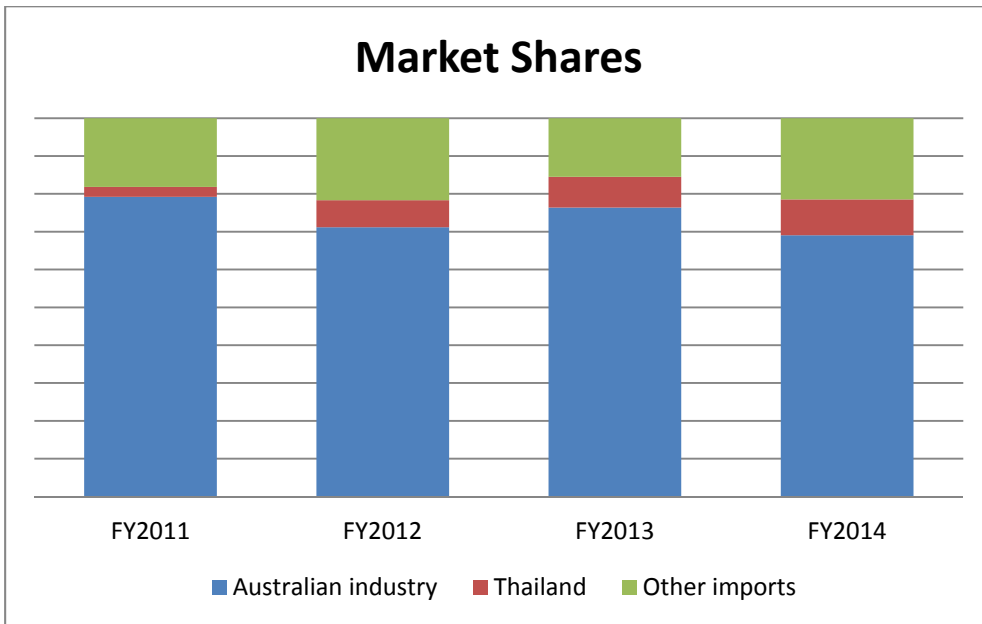


Figure 3: Distribution of market shares between 2011 and 2014 financial years

This graph shows that the Australian industry's market share improved in FY 2012/13 following the imposition of anti-dumping measures on other countries, corresponding with a drop in the market share of imports from countries other than Thailand. In FY 2013/14, the market share of imports from Thailand and other countries both increased at the expense of the Australian industry market share.

The graph also shows that the market share of imports from countries other than Thailand (including countries subject to anti-dumping measures) has returned to the same level as it was prior to the imposition of measures. The Commission notes the market share of imports from Thailand has increased slightly during the investigation period.

7.6 Price effects

ATM's verified sales data used for this analysis excluded export sales and sales of HSS imported from other countries. HSS imported by ATM was excluded from HSS import data analysed.

Import price and volume data was sourced from completed importer questionnaires, with the Commission undertaking verification of the data prior to analysis.

The volume of import sales included in the price effects analysis represents an estimated 95 per cent of the import volume of HSS from Thailand included in the ACBPS import database.

The Commission considers that, as this sales data represents a significant proportion of total imports for the FY2013/14, it allows a reasonably representative and accurate assessment of price effects on the Australian industry.

7.6.1 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Movements in ATM's weighted average annual unit sales revenues and CTMS are illustrated in Figures 4 and 5 below.

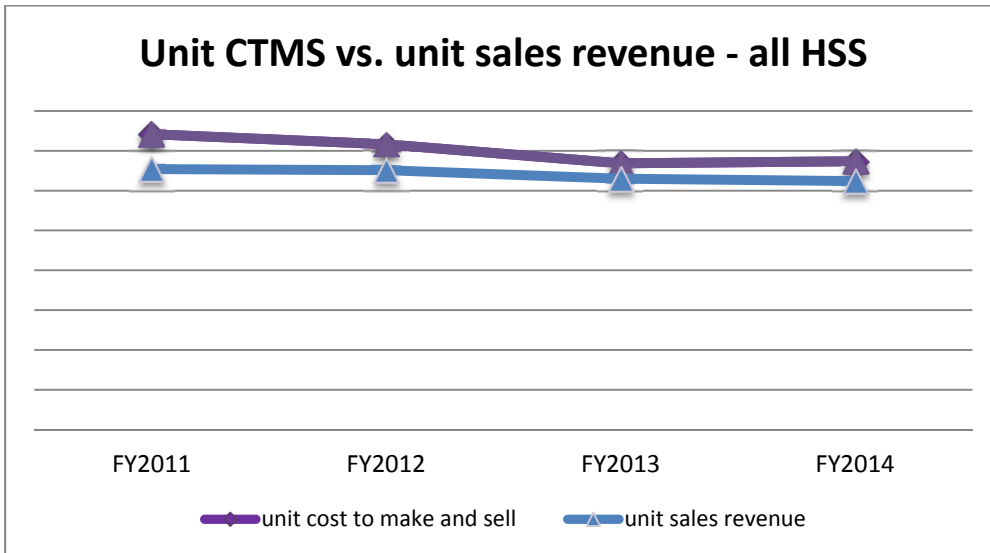


Figure 4: ATM's average unit CTMS vs. average unit sales revenue for its own HSS products

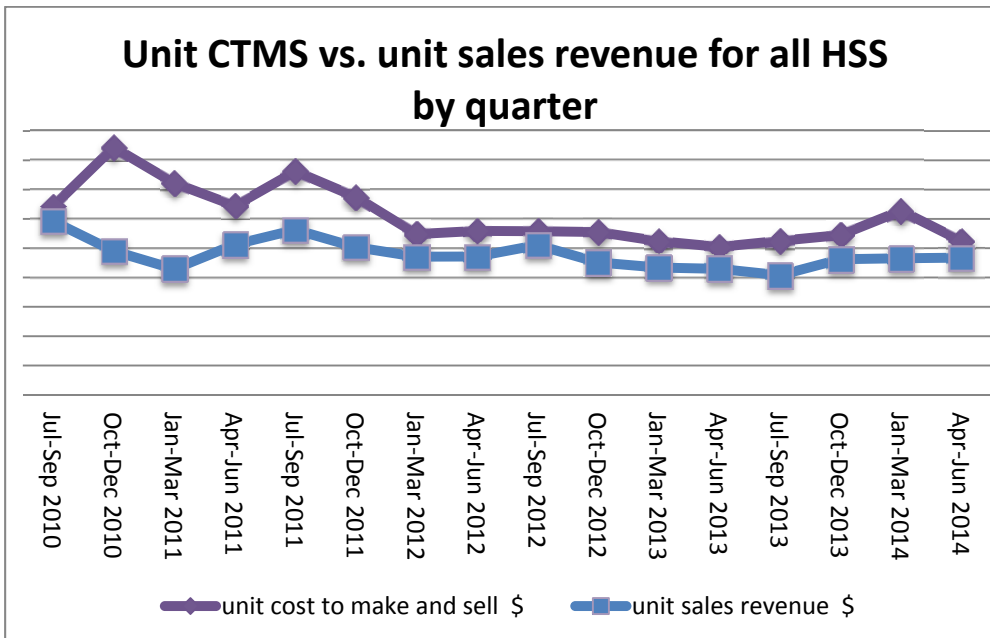


Figure 5: ATM's average unit CTMS vs. average unit sales revenues for ATM's own HSS products by quarters

The Commission notes the above graphs suggest that ATM's prices:

- were suppressed between June 2013 to June 2014 and ATM was not able to increase its selling prices to recover increases in costs (though a price increase did occur in FY2014, it did not increase to the point where the full CTMS was recovered).

The Commission considers that ATM has suffered price suppression in FY2013/14.

7.7 Profit effects

The Commission has verified the profit and profitability (profits measured as a percentage of revenue) information provided by ATM in its application. The analysis indicates that ATM's profits and profitability in respect of domestic HSS sales have been negative since FY2011.

Movements in ATM's quarterly and annual profits and profitability are illustrated in Figures 6 and 7 below.

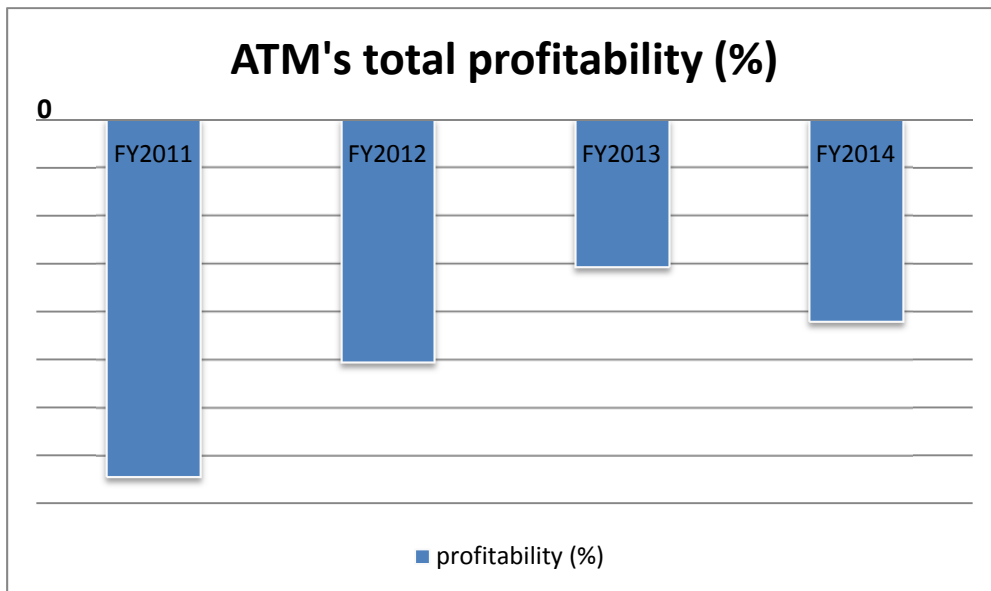


Figure 6: ATM's total profitability (total gain or loss / total sales revenue)

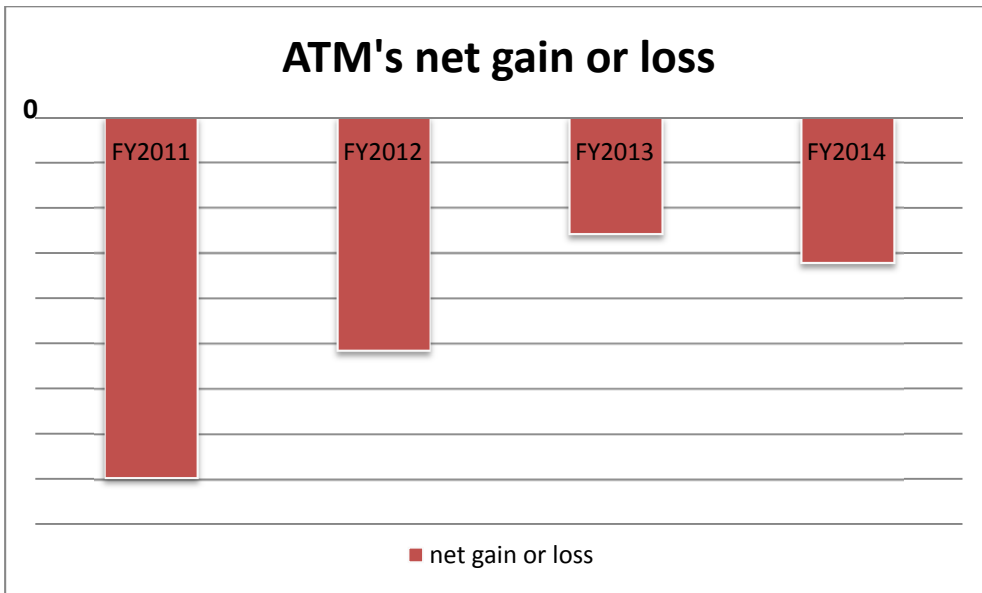


Figure 7: ATM's total net annual loss

From the graphs above, the Commission notes that ATM's profits and profitability have been consistently negative during the injury assessment period. ATM's loss decreased between FY2011/12 and FY2012/13 before increasing in FY2013/14.

7.8 Other economic factors

In its application, ATM claimed that it has experienced injury in respect of the following other economic / injury factors:

- reduced domestic revenues;
- reduced capital investment;
- reduced return on investment;
- write-down of goodwill associated with the HSS business;
- reduced research and development expenditure;
- reduced production and capacity utilisation; and
- reduced employment levels.

To support its claims regarding other economic injury factors, in its application ATM provided Confidential Appendix A7 for HSS for the period FY2010/11 to FY2013/14. The Commission has reviewed the data contained in Confidential Appendix A7 and found that the information submitted appears to support ATM's claims.

At the Australian industry verification visit, the Commission verified the accuracy of ATM's recorded employment numbers and capacity utilisation figures.

Reduced Domestic Revenues

Figure 8 below support ATM's injury claims in its application and shows that ATM's domestic sales values are on a constant reduction trend.

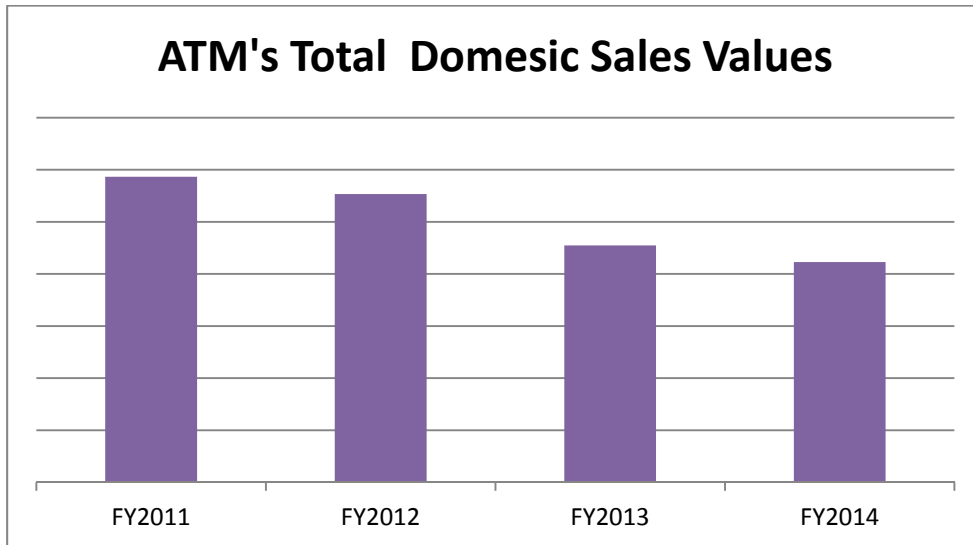


Figure 8: ATM's total domestic sales values

Employment Numbers

The Commission verified that over the period of FY2010/11 to FY2013/14, ATM's employee numbers (dedicated to the manufacture of HSS) decreased by 32 per cent.

Capacity Utilisation

At the Australian industry verification visit, ATM provided the Commission with a spreadsheet it used to calculate total manufacturing capacity of all mills in its three manufacturing facilities and their capacity utilisation figures with respect to the calculated total capacity figure in Confidential Appendix A7. The Commission verified the accuracy of ATM's manufacturing capacity calculations and the actual production rates. The Commission therefore verified that the capacity utilisation figures ATM provided in its application represents a true and fair account of its actual total production capacity and actual realised production figures.

Figure 9 below shows ATM's capacity utilisation rates for production of like goods.

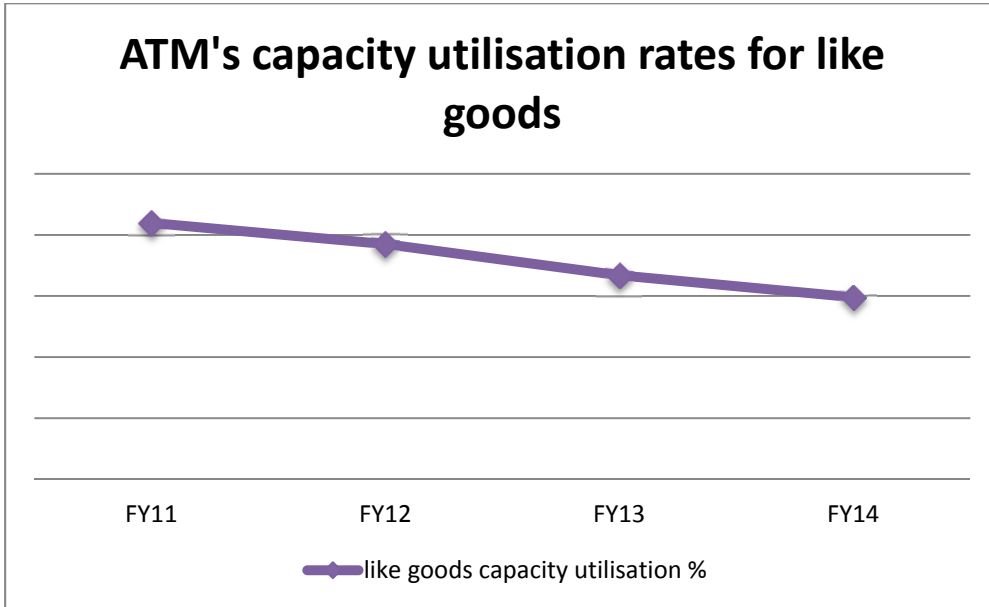


Figure 9: ATM's capacity utilisation rates for like goods

Capital Investment

ATM's capital investment for the production of HSS has decreased significantly from FY2010/11 to FY2011/12 and recovered slightly in FY2012/13. Capital investment has slightly declined from FY2012/13 to 2013/14. Figure 10 below shows that ATM's capital investment has reduced significantly between FY2010/11 and FY2013/14.

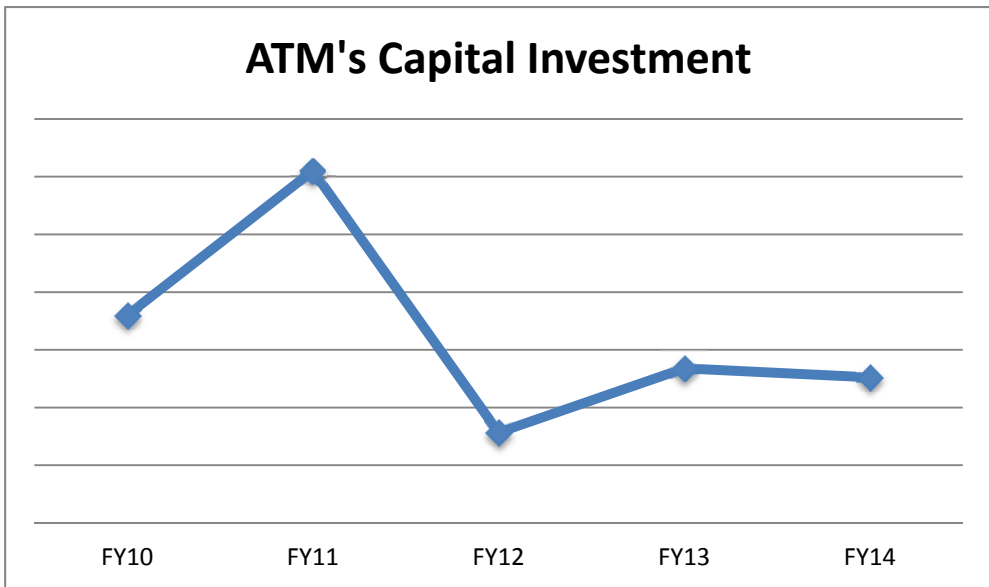


Figure 10: ATM's capital investment for production of the goods

Return on Investment

ATM provided its return on capital employed figures for the injury assessment period in Confidential Appendix 7 of its application. The Commission observed that the return on capital employed⁴⁶ (ROCE) increased between FY2010/11 and FY2011/12 but declined sharply in FY2012/13. While ROCE improved in FY2013/14 it failed to yield positive returns.

Reduced research and development (R&D) expenditure

ATM's Confidential Appendix 7 shows that R&D expenditure for HSS has increased between FY2011 and FY2012 but reduced significantly since FY2012 to levels well below FY2011.

Write-down of goodwill associated with the HSS business

In its application, ATM did not provide sufficient information to support its claims that it lost goodwill associated with its HSS business. However, the Commission notes that on 6 February 2013, Arrium Ltd, ATM's parent company made an ASX release where it announced that it wrote down all the goodwill in its Austube Mills business.

7.9 The Commission's assessment

Based on the analysis detailed above, there are sufficient grounds to support the claim that ATM has experienced injury during the injury analysis period in the form of:

- price suppression;
- reduced profits and profitability;
- reduced domestic revenues;
- reduced capital investment;
- reduced return on investment;
- write-down of goodwill associated with the HSS business;
- reduced research and development expenditure;
- reduced production and capacity utilisation; and
- reduced employment.

⁴⁶ ATM states that return on capital (funds) employed is the standard measure for return on investment for Arrium Ltd. companies and reported its return on capital employed instead of return of investment.

8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 Finding

Based on all the information available, the Commission has made an assessment that HSS exported to Australia from Thailand at dumped prices caused material injury to the Australian industry producing like goods.

The Commission further analysed and assessed causation factors identified in SEF 254 and considered submissions by interested parties. As a result, the Commission has determined that the Australian industry suffered injury caused by dumping in the form of:

- price suppression;
- reduced profits and profitability; and
- reduced revenue.

8.2 Introduction

The Commission established that during the period of investigation, exports of HSS from Thailand were dumped and that the Australian industry has suffered injury.

Subsection 269TAE(1) of the Act 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 following section of this report provides a summary of the Commission's key considerations in its causation assessment.

8.3 Volume injury

8.3.1 ATM's claims

ATM's claims in relation to effects on volume caused by the dumped imports of HSS from Thailand are detailed in *Consideration Report 254* and the *ATM Verification Visit Report*. In brief, ATM claims that:

- sales volumes have decreased; and
- it lost market share due to importation of dumped HSS.

8.3.2 Sales Volumes

During the Commission's verification visit, ATM submitted circumstantial evidence that it has lost some sales to imported products from Thailand.

The detailed analysis of the cleansed ACBPS import data in Figure 11 below shows the volumes of HSS imported from Thailand between FY2011/12 and FY2013/14 versus volumes of HSS imported from countries subject to anti-dumping measures and from other countries that are not subject to this investigation and are not subject to anti-dumping measures.

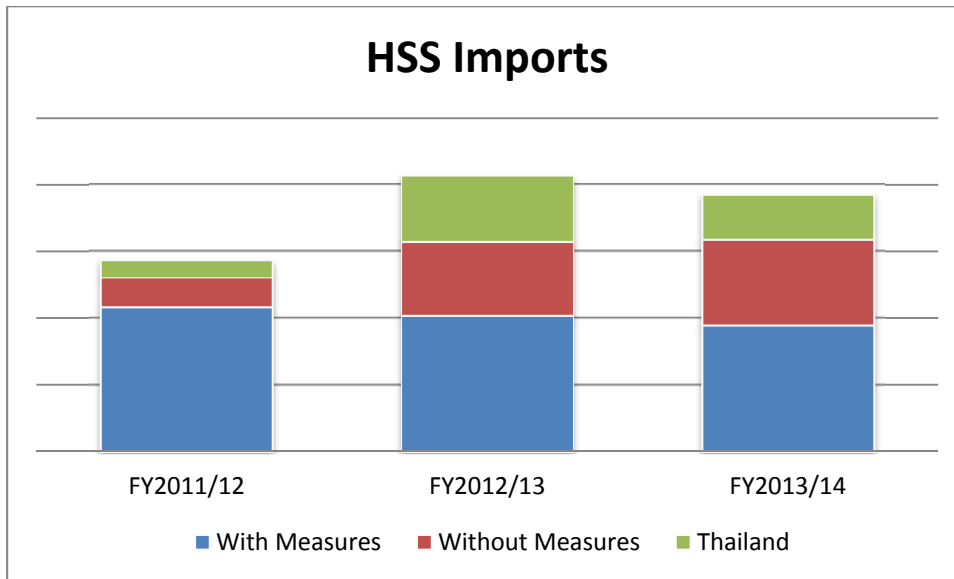


Figure 11: Comparison of volumes of HSS imports between FY2011/12 and FY2013/14

Figure 12 below shows the level of contraction in the Australian HSS market and Figure 2 in Section 7.5.1 shows ATM's domestic sales volumes between FY2011 and FY2014.

Despite a significant contraction in the total Australian HSS market, the volume of imported HSS from Thailand significantly increased between FY2011/12 and FY2012/13, and reduced in FY2013/14. However, Figure 11 above shows that notwithstanding the contraction of the Australian HSS market, the imports from other countries that are not subject to anti-dumping measures have shown the largest amount of increase.

The Commission notes that the reduced demand resulting from a downturn in the overall HSS market is likely to have contributed to ATM's reduced sales volumes during the investigation period. Figure 11 above displays that during the injury analysis period, volumes of HSS imported from Thailand have fluctuated. Australian industry's loss of sales volume appears to be due to increase of imports of HSS exported from the "other" countries that are not subject to this investigation or anti-dumping measures imposed.

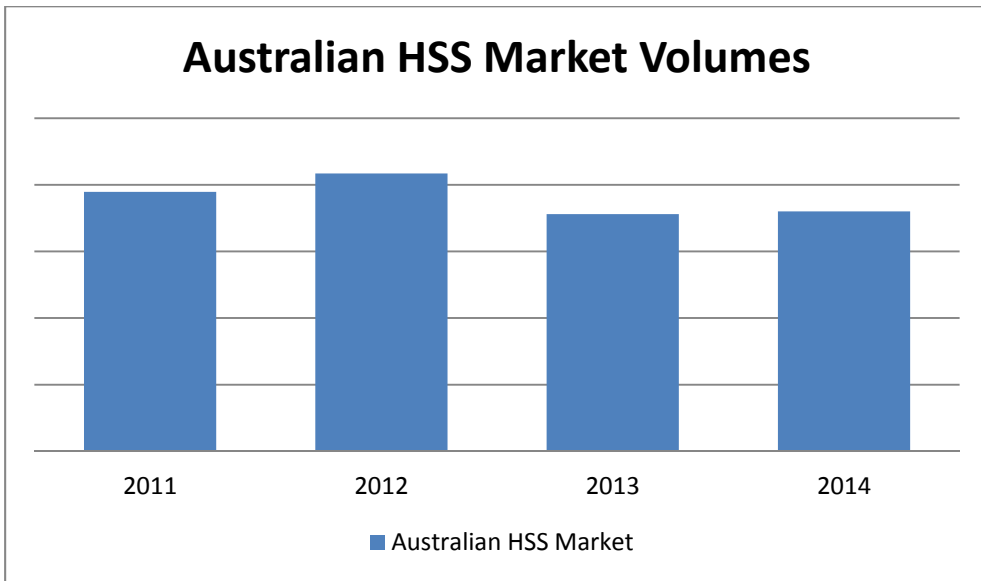


Figure 12: Total Australian HSS market volume

Based on the information gathered from the cleansed ACBPS import database and verified data from ATM, the Commission considers that it is not clear whether the dumped imports from Thailand have caused the Australian industry material injury in the form of reduced sales volumes.

8.3.3 Market Share

As discussed in Section 7.5.2 of this report, the Australian industry has lost market share between FY2011/12 to FY2013/14. It is also observed that during that period, export volumes and market share of the imports of HSS from Thailand have fluctuated but was on an increasing trend.

The ACBPS' import data as depicted in Figure 13 below shows that during the injury analysis period, the proportion of HSS imported from Thailand with respect to total HSS imports has also increased.⁴⁷

⁴⁷ Years depicted on y axis of Figure 13 are calendar years

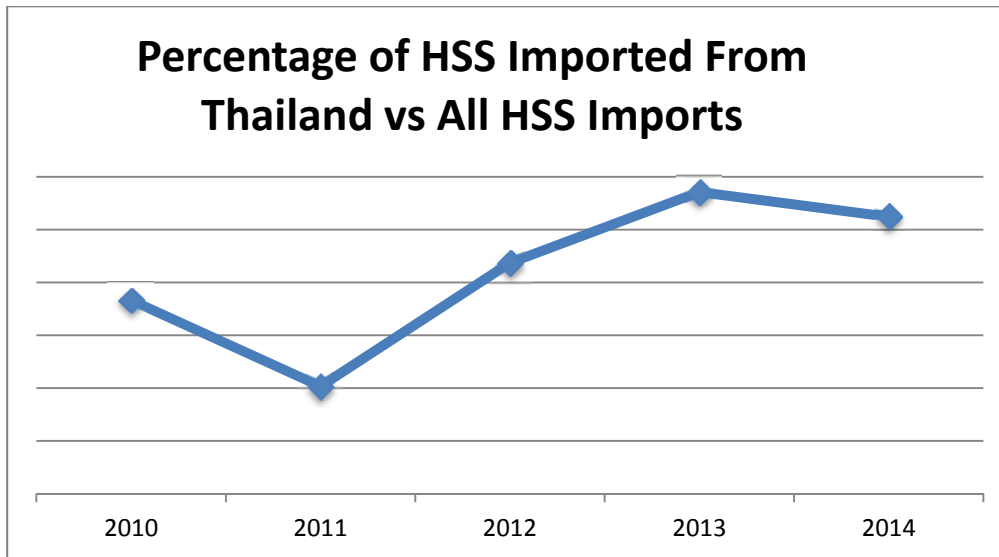


Figure 13: Percentage of Thai HSS imports with respect to total HSS imports

ATM claims that injury to the Australian industry caused by imports from Thailand commenced in June 2012, following the imposition of measures on certain other countries exporting HSS to Australia. The Commission notes that, Figure 3 in Section 7.5.2 does not indicate that the Australian industry has lost market share to Thailand. This is contrary to the claim of lost market share to exports from Thailand by ATM during the investigation period. ATM claims in its application that it was able to hold its market share only by means of reducing its prices below its cost to make and sell levels.

In addition, Figure 11 shows that the volume of the imports from “other” countries that are not subject to this investigation and do not have anti-dumping duties imposed shows the highest rate of increase in a contracting Australian domestic HSS market. The Commission considers that the increase in volumes of imports from “other” countries during the investigation period is significant. The Commission notes that Figure 3 in Section 7.5.2 shows the market share of the other countries combined with the market share of the countries that do have measures imposed while Figure 11 clearly shows that import volumes from the countries that have anti-dumping measures have significantly declined over the injury assessment period. Therefore, Figure 3 does not represent the significant of rate of increase of imports from “other” countries.

As a result, the Commission is of the view that the Australian industry has not experienced injury in the form of lost market share due to the dumped imports of HSS from Thailand and it appears that the Australian industry has lost market share to HSS imports from “other” countries not subject to anti-dumping measures.

8.3.4 Submissions received about volume injury

In its submission dated 17 June 2015, Saha Thai requests the Commission to further consider the effects of:

- competition from sources being “un-dumped” product from countries such as the United Arab Emirates; and

- competition from like goods containing alloy elements such as ‘boron’. Alloyed HSS is being exported from countries currently subject to anti –dumping measures on non-alloyed HSS.

Saha Thai also states in the same submission that based on its market intelligence, imports of alloyed steel products are essentially painted RHS, and not galvanised CHS.

8.3.5 The Commission’s assessment

The Commission notes that it has considered the effects of HSS imported from other countries and the export of alloyed HSS.

As explained in Sections 8.3.2 and 8.3.3 of this report, the Commission evaluated ATM’s volume injury claims. In doing so, the Commission had regard to cleansed ACBPS import data. The Commission’s analysis shows that:

- although import volumes from Thailand are on an increasing trend (with some fluctuation), it is not clear whether the dumped imports from Thailand have caused the Australian industry material injury in the form of reduced sales volumes; and
- Australian industry has not experienced injury in the form of lost market share due to the dumped imports of HSS from Thailand as it appears that the Australian industry has lost market share to HSS imports from “other” countries not subject to anti-dumping measures.

Effects of the increase in imports from countries that are not subject to anti-dumping or countervailing measures are further discussed in Section 8.6.4 of this report.

The Commission emphasises that, currently an anti-circumvention investigation on imports of alloyed HSS⁴⁸ is being conducted to investigate these allegations. Effects of alloyed HSS imports are further discussed in Section 8.6.2 of this report.

8.4 Price injury

8.4.1 Size of the dumping margins

Subsection 269TAE(1)(aa) requires the Parliamentary Secretary to have regard to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The dumping margins outlined in Chapter 6, ranging between 5.7 per cent and 19.8 per cent, are above negligible (two per cent) and enabled importers of HSS to have a competitive advantage on price compared to the Australian industry.

⁴⁸ <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-291.aspx>

8.4.2 Price undercutting

The Commission considers that, whilst there may be slight differences in the characteristics of HSS from domestic and imported sources, evidence suggests that imported and domestically produced HSS are substituted by end users. The degree of product differentiation is not significant.

In addition, the Commission has found that it is not uncommon for purchasers of HSS to procure supply from more than one source, including a combination of imported and domestically produced HSS. HSS purchasers have the ability to compare prices of domestically produced HSS with imported HSS, and there is evidence that indicates the prices of imported products are regularly used as leverage in price negotiations with ATM.

In this context, the Commission considers the market for HSS in Australia is price sensitive.

The Commission has undertaken an analysis of price undercutting claims by ATM. The analysis is based on verified sales data from importers visited by the Commission and ATM (**Confidential Appendix 3**). The volume of import sales included in the price undercutting analysis represents over 95 per cent of the import volume of HSS from Thailand included in the ACBPS import database.

8.4.2.1 Comparison of overall weighted average FIS prices

The Commission compared weighted average free into store (FIS) prices of the imported goods sold by importers, to ATM's net selling price delivered for each product, at a comparable level of trade. The Commission's analysis found that the prices of the imported goods from Thailand undercut ATM's domestic selling prices for all of the 12 months during the investigation period.

For all importers, the overall undercutting range was 7.2 per cent to 21.0 per cent. The analysis showed price undercutting for all importers over the investigation period.

8.4.2.2 Comparison of weighted average FIS prices of RHS AS1163-C350L0 Black products

The Commission compared the weighted average FIS prices over the investigation period of imported RHS AS1163-C350L0 Black goods sold by visited importers against ATM's weighted average FIS prices for RHS AS1163-C350L0 Black products.⁴⁹ In doing so, the Commission only compared the sales by importers where the grades and finish of the products are identifiable on the sales listings. The Commission noted that in a particular importer's sales listing, the impact test designation (L0) was not provided on the sales product definitions. The Commission then calculated a L0 premium for C350 Black products by adding calculated average profit of the importer from sales of HSS over the investigation period to the verified price extra charged by the exporter for impact testing.

⁴⁹ It is noted that there were no or minimal volumes of sales of AS1163-C350L0 sold by some visited importers during the investigation period

For the importers included in this analysis, the Commission's calculations showed that the importers' prices undercut ATM's prices by 3.7 percent over the investigation period.

8.4.2.3 Submissions received

In its submission dated 17 June 2015, Saha Thai alleged that ATM was undercutting its own prices by sales through a domestic agent and provided documentation showing price offers from that "agent"⁵⁰. In support of this submission, Saha Thai provided price offers from that company dated September 2014 and May 2015. Saha Thai also provided a purchase order against the September 2014 offer and corresponding delivery docket. Saha Thai provided evidence showing that at least some of the delivered products purchased through that "agent" were manufactured by ATM.

In the same submission, Saha Thai calculates a theoretical selling price for its own products using weighted average FOB level export prices and its exclusive importer's verified importation, SG&A costs and profit rates during the investigation period and asserts that the prices offered by the company which it claims to be an agent of ATM should be lower than Saha Thai's products' prices in Australian market. In doing so, Saha Thai implies that ATM does not follow the import parity price plus a local premium policy and ATM is in fact undercutting its own prices by such sales through its agents.

8.4.2.4 The Commission's consideration

In considering Saha Thai's submission into the Commission's price injury determinations in SEF 254, the Commission had regard to the data and evidence provided by Saha Thai in confidential attachments to its submission, showing price offers from a company that Saha Thai alleges to be ATM's agent. The Commission understands that at least some of the products included in these price offers are manufactured by ATM.

The Commission however is of the view that the price offers accompanying Saha Thai's submission are dated well after the investigation period and have questionable utility. The Commission notes that in the same submission, Saha Thai also stated that HRC prices which constitute some 90 per cent of HSS manufacturing costs have decreased since the investigation period. Therefore, the Commission considers that comparison of average selling prices of Saha Thai's products in Australian market between 1 July 2013 and 30 June 2014 with price offers for December 2014 and August 2015 deliveries cannot provide a reliable comparison base.

The Commission has verified ATM's selling prices and its import price parity policy and considers that there is sufficient evidence showing that ATM priced its products based on import price offers plus a local premium throughout the investigation period.

⁵⁰ ATM officially requested redaction of the company names, prices and terms of trade information in Saha Thai's submission claiming that these constitute commercially sensitive information. The Commission then redacted these information on Saha Thai's submission.

8.4.2.5 Price undercutting determination

The Commission notes that price undercutting could not be demonstrated for every grade, customer, month and level of trade for each importer analysed due to limitations of sales data from the importers.

However, the Commission considers there is sufficient evidence from the price undercutting analysis to conclude that the dumping at the levels outlined in Chapter 6 (in the range of 5.7 per cent to 19.8 per cent) created a competitive benefit to importers, and demonstrates that the Australian industry faced price pressure from imported goods.

The information collected from the Australian industry and importers support ATM's claim that the Australian HSS market shows significant price sensitivity and price is the major criteria in customers' purchasing decisions. The Commission also understand that the product and brand differentiation is minimal as long as the products sold satisfy the standards' (i.e. AS/NZS 1163) chemical, mechanical, quality and tolerance criteria. The Commission therefore considers that price undercutting has had significant injury effects on Australian industry.

8.4.3 Price Suppression

Price suppression in terms of Article 3.2 of the World Trade Organization Anti-Dumping Agreement, is where price increases for the Australian industry's products, which otherwise would have occurred, have been prevented to a significant degree.

The analysis shows that throughout the injury assessment period, ATM's CTMS exceeded its selling prices of the goods. The Commission considers that, noting the size of the dumping margins as discussed in Chapter 6, without the presence of dumping, it is likely that ATM would be in a position to maintain pricing at levels necessary to cover its CTMS.

The Commission has compared the weighted average export prices from Thailand in calendar year (CY) 2013 and between January 2014 and July 2014 from the ACBPS import database with export prices from four countries that have anti-dumping measures imposed.⁵¹ Figures 14 and 15 show that Thai export prices are considerably lower than the prices of the countries' that have anti-dumping measures imposed. This is consistent with ATM's claims about Thai prices being price leaders in the market.

⁵¹ China, Malaysia, Taiwan and Korea (with no specific order)



Figure 14: Weighted average export price comparison in CY2013

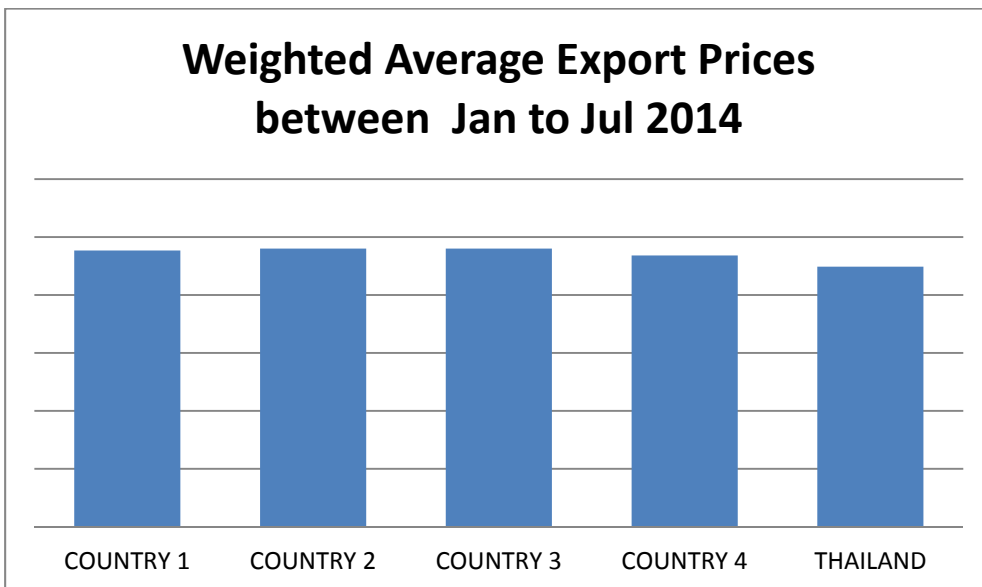


Figure 15: Weighted average export price comparison between January and July 2014

As a result, the Commission is satisfied that ATM has been unable to increase its price as it is required to compete with dumped Thai imports and accordingly has suffered material injury in the form of price suppression.

8.5 Profit effects

The price undercutting and dumping margins outlined in Section 8.4.2.3 and Chapter 6 show that the impact of dumping is detrimental to the Australian industry's profit and profitability.

The Commission calculated the possible weighted average effect of the dumping margins on the imports of HSS from Thailand using the sales volumes of the cooperating importers over the investigation period (**Confidential Appendix 4**). The Commission is satisfied that an increase in price, equal to the weighted average effect of dumping margins applied to imports from Thailand, will be sufficient to have taken ATM out of a negative profit position. It is the Commission's view that due to the impact of dumped HSS from Thailand, ATM's injury in terms of price and profit effects is greater than that likely to have occurred in the normal ebb and flow of business in the contracting market.

The Commission therefore considers that as a direct consequence of the price injury caused by dumping, ATM has experienced reduced profits and profitability.

8.6 Other causes of injury

Under subsection 269TAE(2A) of the Act, in determining material injury for the purposes referred to in subsection 269TAE(1), the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of goods, such as:

- a) the volume and prices of imported like goods that are not dumped; or
- b) the volume and prices of importations of like goods that are not subsidised; or
- c) contractions in demand or changes in patterns of consumption; or
- d) restrictive trade practices of, and competition between, foreign and Australian producers of like goods; or
- e) developments in technology; or
- f) the export performance and productivity of the Australian industry.

Any such injury or hindrance from the above factors must not be attributed to the exportation of those goods.

The Commission has considered the factors outlined in subsection 269TAE(2A) and the factors that are raised by interested parties throughout the investigation and has addressed the following other possible causes of injury:

- contraction in the market;
- increase in imports of alloyed HSS which have not been included in the goods definition of the previous anti-dumping investigation for HSS (and therefore are not subject to anti-dumping measures); and
- ATM's choice of distribution and selling system (limiting access to direct purchases from ATM to larger 'franchised' distributors, thereby encouraging them to source imports).

8.6.1 Contraction in the market

As detailed in Section 8.3.2, the Australian HSS market showed an overall contraction trend throughout the injury assessment period. The Commission understands that the reduction in demand from construction and mining industries may have contributed to the contraction.

Figure 16 below depicts ATM's sales volumes in relation to total Australian HSS market volumes. Figure 16 shows that ATM's sales volumes diminished faster than the contraction in the market. Therefore, the Commission considers that the injury cannot be associated with the contraction in the market alone.

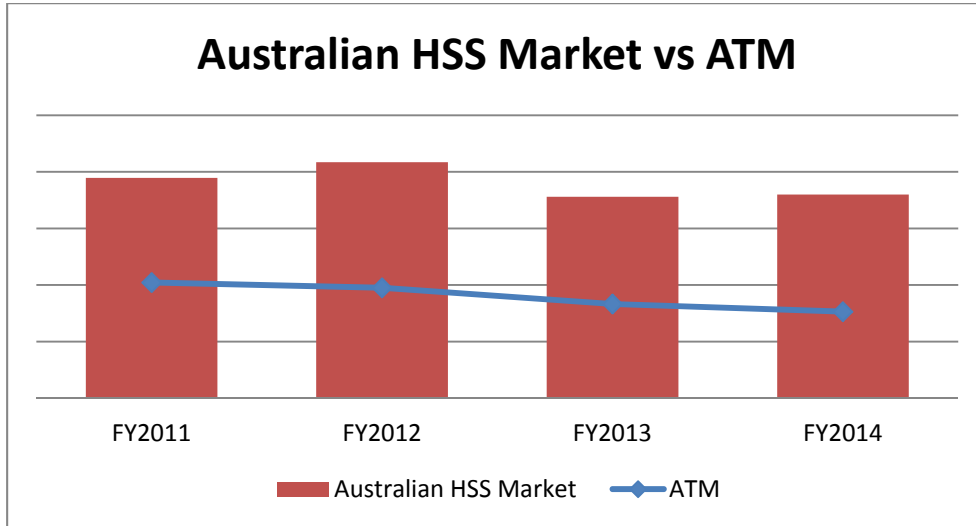


Figure 16: ATM's sales volumes in relation to total Australian HSS market volumes

8.6.2 Increase in imports of alloyed HSS

Interested parties claimed that an increase in alloyed HSS during the investigation period might have contributed to Australian industry's injury as these imports are not subject to anti-dumping duties. In particular, Saha Thai requested in its submission dated 17 June 2015 re-consideration of the competition effects from countries which have increased their volume of imports of like-goods containing alloy elements such as 'boron' being countries including China and Malaysia.

The Commission acknowledges that certain alloyed HSS is being imported into Australia. The Commission also notes that currently an anti-circumvention inquiry into imports of alloyed HSS is being conducted. However, the Commission is of the view that there is enough evidence showing that dumped imports of the goods from Thailand have caused material injury to Australian industry and the injury suffered by the Australian industry due to dumped imports from Thailand cannot be associated with alloyed HSS imports.

8.6.3 ATM's choice of distribution and selling system

Some interested parties claimed that ATM refused to supply domestically manufactured HSS to some distributors or end users directly. As a result, interested parties explained that they were forced to purchase HSS from imported sources.

This issue was discussed with ATM during the verification visit and it is understood that, whilst some purchasers of HSS may not be able to purchase Australian manufactured HSS at a point in the supply chain that they are satisfied with (i.e. direct from ATM rather than via their distribution networks) it is apparent that locally manufactured HSS is available for purchase further along the supply chain. It is also noted that any

unwillingness on the part of the Australian industry to sell at any point in the supply chain may influence purchasers to look to imported sources of HSS, rather than purchase Australian manufactured HSS.

However, the Commission considers the Australian industry's decision to not to sell directly to customers that do not satisfy its internal criteria is a business decision to maintain the viability of its distributors, with whom it had contractual and commercial agreements in place.

8.6.4 Imports of HSS from countries that are not subject to dumping or countervailing duties

As analysed in Section 8.3.2, HSS imports from countries that are not subject to dumping and/or countervailing duties have increased significantly after imposition of duties by Investigation 177 (Figure 11 refers). While the Commission considers that the increase in imports from the countries that are not subject to dumping duties may have contributed to the injury, due to differences in the product mix imported from different countries, it is not possible to assess or quantify the extent of the injury that may have been caused by these imports. The Commission notes that, ATM, in its application identifies Thai imports as the major source of injury in the market it competes in. The Commission also notes that Thai imports command a significant market share in Australia. The Commission, therefore, is of the view that although imports from other countries may have contributed to the scale of material injury the Australian industry has experienced throughout the injury assessment period, the data is not strong enough to diminish the validity of the Commission's previous material injury and causation findings.

8.7 Conclusion – causal link

The Commission has established a connection between imports of HSS from Thailand at dumped prices and the fact that prices of HSS at dumped prices sold in Australia undercut the Australian industry prices of HSS throughout the investigation period.

The price undercutting and associated price pressures have contributed to price suppression for the Australian industry, which has resulted in negative profitability.

The Commission considers that other possible causes of injury do not detract from the assessment that dumping has caused material injury to the Australian industry.

It is the Commission's view that there are sufficient grounds to establish that the price suppression, reduced profits, reduced profitability and reduced revenues, suffered by the Australian industry producing like goods were caused by dumping and that the injury suffered by the Australian industry as a result of the dumping was material.

9 WILL DUMPING AND MATERIAL INJURY CONTINUE?

9.1 Findings

The Commission is of the view that exports of HSS from Thailand in future may be at dumped prices, and that continued dumping may cause further material injury to the Australian industry.

9.2 Introduction

Pursuant to subsection 269TG(2) of the Act, where the Parliamentary Secretary is satisfied that material injury to an Australian industry producing like goods has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Parliamentary Secretary is satisfied that the dumping and material injury may continue.

9.3 Will dumping continue?

The Commission's dumping analysis found dumping margins between 5.7 per cent and 19.8 per cent for HSS from Thailand during the investigation period.

The Commission notes that forward orders exist for exports from Thailand and that the HSS exported from Thailand has a significant market share (approximately 8 per cent in 2013 and 9 per cent between January and July 2014) and influence in the Australian market.

The Commission has examined import volumes from the ACBPS import database occurring during and post the investigation period. The Commission observes that import volumes from Thailand for the six month period following the end of the investigation period, that is July to end of December 2014, are higher than verified volumes during the investigation period. Similarly, the Commission observes that the weighted average FOB export prices as recorded in the ACBPS import database during July to December 2014 are similar and in some instances lower than the declared export prices reported in the ACBPS import database during the investigation period.

Based on these observations and the dumping margins found, the Commission considers that dumping will continue if anti-dumping measures are not imposed.

ACBPS import data for 1 July 2014 to 31 December 2014 is at **Confidential Appendix 5**.

9.4 Will material injury continue?

The Commission has reviewed the Australian industry's performance over the injury analysis period and has made a finding that HSS exported at dumped prices from Thailand has caused material injury to the Australian industry.

The Commission considers that the continuation of price competition from dumped imports from Thailand is likely to have a continuing adverse impact on the Australian industry.

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Based on the available evidence, the Commission considers that exports of HSS from Thailand in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

10 NON INJURIOUS PRICE

10.1 Assessment

The Commissioner has made the assessment that the non-injurious price (NIP) can be determined by setting the unsuppressed selling price (USP) equal to ATM's CTMS during the investigation period plus ATM's profit rate for the first three quarters of 2008.

The Commission compared the NIP with the calculated weighted average normal values for each of the cooperating exporters. It was observed that the corresponding NIP was higher than the normal values for all exporters from Thailand therefore subsection 8(5B)(b) of the *Customs Tariff (Anti-Dumping) Act 1975* is not satisfied. As a result, the NIP will not be the operative measure for exports of HSS for all exports from Thailand.

10.2 Introduction

Duties may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping, but the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if it is sufficient to remove the injury.⁵²

Pursuant to subsection 8(5BAA) of the *Customs Tariff (Anti-Dumping) Act 1975*, the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. However, this does not limit the Parliamentary Secretary from having regard to fixing a lesser level of duty if considered reasonable in the circumstances.

The lesser duty provision is given effect through the calculation of a NIP. Section 269TACA of the Act identifies the NIP of the goods exported to Australia as the minimum price necessary to remove the injury caused by dumping.

Anti-dumping duties are based on free-on-board (FOB) prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

The Commission's preferred approach to establishing USPs observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS plus profit; or
- selling prices of un-dumped imports.

⁵² Subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975*

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

10.3 Australian Industry

At the Australian industry verification meeting, ATM stated that it believed that the construction of industry prices would be an appropriate way of calculating the USP. Later, in its submissions dated 26 May 2015⁵³ and 17 June 2015⁵⁴, ATM stated that it is opposed to the use of the lesser duty rule claiming that it is arbitrarily based and it does not sufficiently remove the injury from dumping. In the same submission, ATM agrees with the Commission's approach of constructing USP but submitted that in calculating the USP, its CTMS should be uplifted by its actual profit achieved between the first nine months of 2008. Investigation 177 assessed this period as being isolated from the negative effects of dumping. ATM is of the view that ABS profit data for the primary metal and metal manufacturing sector in FY2008/09 should not substitute actual profits achieved by the industry. ATM also stressed that in Investigation 177, Australian industry's actual profit rates was used to calculate the USP and notes that ATM considers that in the presence of actual industry performance, a secondary alternative that is diluted by the impacts of small, less capital intensive performers in the nominated industry should not be used. ATM maintains that its profit in the first three quarters of 2008 cannot simply be rejected because it was above the level of profit achieved by members in a much broader industry category.

10.4 Other submissions received

In its submission dated 17 July 2015⁵⁵, Saha Thai stated that the first nine months in 2008 was globally an unprecedented era of demand with record high prices. Saha Thai submitted that it does not consider the first nine months of 2008 to be a representative period for calculating a profit margin for the purposes of USP.

10.5 The Commission's assessment of NIP

The Commission considers that the circumstances explained in subsection 8(5BAA) of the *Customs Tariff (Anti-Dumping) Act 1975* do not exist in this investigation and accordingly the Parliamentary Secretary is required to consider the lesser duty rule.

The Commission considers that it is reasonable to adopt the constructed industry selling prices approach to calculating USP. The Commission notes that there have been no objections for using ATM's CTMS for galvanised products. Therefore, the Commission is

53 File 33 in electronic public record

54 File 41 in electronic public record

55 File 38 in electronic public record

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of the view that ATM's CTMS during the investigation period for its galvanised⁵⁶ HSS should be used in constructing industry selling prices.

In calculating the USP, the Australian industry's selling prices at a time unaffected by dumping would be used; therefore the Commission considers that in order to determine the most reasonable period for calculation of Australian industry's profit, a period unaffected by dumping should be chosen. In determining the most reasonable period, the Commission relied on findings of Trade Measures Branch Report Number 144 on HSS which stated that:

...the Australian HSS industry performed strongly in the first three quarters of 2008 in terms of profits and profitability before the onset of the global financial crisis.⁵⁷

The Commission notes that Saha Thai opposes using the 2008-2009 period as a base to calculate Australian industry's profits but fails to propose an alternative. As a result, the Commission considers that it is reasonable to use the 2008-2009 period which is assessed to be unaffected by dumping for the purposes of calculating an USP.

The Commission reviewed its position based on submissions received in relation to the profit rate to be used in USP. The Commission notes ATM's argument that primary metal and metal product manufacturing industry in ABS's statistics might not provide an ideal basis for Australian HSS industry's performance as the former constitutes a large range of industries which ATM classifies some as being "small and less capital intensive".

On that basis, the Commission revises its decision and considers using ATM's verified profit rate for the first nine months of 2008 reasonable for the purposes of calculating USP consistent with the position in Investigation 177.

To calculate NIP, the Commission has calculated average amounts for overseas freight, insurance, into store costs, importer expenses and profit based on the verified data from the importers. These free into store costs are then deducted from the calculated USP to come up with a NIP. NIP calculations are at **Confidential Appendix 6**.

⁵⁶ Includes inline galvanised and pre-galvanised HSS

⁵⁷ REP144 – in relation to investigation No 144.

11 PROPOSED MEASURES

11.1 Finding

The Commissioner recommends to the Parliamentary Secretary that a dumping duty notice be published in respect of HSS exported to Australia by all exporters from Thailand.

11.2 Forms of duty

The available forms of duty when implementing measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method;
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (i.e. a percentage of the export price).

11.3 Responses to SEF 254

The Commission has received three submissions from ATM on 26 May 2015, on 17 June 2015 and on 25 June 2015 in regards to the form of measures specified in the PAD and proposed in the SEF.⁵⁸ In its submissions, ATM strongly opposes the ad valorem method and states that it does not consider that ad valorem measures are appropriate in a market with declining market demand. ATM argues in its submissions that ad valorem measures do not prevent ongoing dumping at a lower price point offsetting the cost impost of duties. ATM highlights that where measures are collected that exceed the margin of injurious dumping, these may be refunded via the Duty Assessment process while a short-payment of interim dumping duty that occurs from measures based upon the ad valorem method cannot be subsequently collected from the importer. ATM also provided evidence in a confidential attachment to its submission dated 25 June 2015 that a certain HSS importer advised its customers that any amendment of duty including an imposition of dumping duty will not be reflected to buyers account.

In its submission dated 17 June 2015, Saha Thai states that it supported the Commission's intention to apply ad-valorem method. Saha Thai explains that HSS product group has many different price levels for different finishes, grades and dimensions. Saha Thai states that it would be considered an unjustified protectionist measure if a combination method is used because of the product mix and explains that HDG finish products can be US\$150 more expensive than "black" products. Saha Thai alleges that the two critical input materials for HRC being iron ore and coking coal were at half prices they enjoyed during the investigation period and asserts that global HRC prices have come down by around US\$100 per tonne since investigation period. Saha Thai claims that while HRC costs can comprise up to 90 per cent of HSS manufacturing

⁵⁸ Files 41,42 and 43 on the electronic public record

costs, it would be effectively an attempt to impose a regulatory price fixing should the combination method be recommended. Saha Thai is also of the view that since the Australian dollar shows significant variability against US dollar and given that most import and export transactions are conducted in US dollars, only an ad valorem rate should be recommended.

11.4 The Commission's assessment

In determining the most appropriate form of measures, the Commission had regard to submissions lodged by interested parties including ATM, the *Guidelines on the Application of Forms of Dumping Duty – November 2013* available on the Anti-Dumping Commission website⁵⁹ and relevant factors influencing the HSS market.

The Commission notes that HSS has various price points mainly for different finishes. The *Guidelines on the Application of Forms of Dumping Duty – November 2013* states that the combination of fixed and variable duty method, like the floor price duty method and fixed duty method, may not suit those situations where there are many models or types of the good with significantly different prices.

The Commission also notes that HSS being a globally traded commodity shows significant price variation over time. The Commission observes that HSS prices both globally and in Australian market are showing a downwards trend since the end of the investigation period in July 2014. The *Guidelines on the Application of Forms of Dumping Duty – November 2013* raises the following concerns about the combination of fixed and variable duty method in declining markets:

- the 'effective' rate increases in a declining market and makes the combination of fixed and variable duty method punitive;
- the ascertained export price used in the combination of fixed and variable duty method can become out-of-date; and
- the punitive effect in a falling market of the fixed form of this duty can have adverse effects on downstream industries.

Therefore, the Commission's considers that, for this investigation, the ad valorem duty method is the most appropriate method. Taking into account that HSS shows significant price variance between different models, the Commission recommends imposition of measures using ad valorem duty method.

The Commission calculated that the NIP is higher than the corresponding normal value of every exporter from Thailand. This means that the normal value is the operative measure and the interim dumping duties will be set in accordance with the full margins of dumping as tabulated below:

⁵⁹ Refer to Guidelines on the Application of Forms of Dumping Duty available at – <http://www.adcommission.gov.au>

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Exporter / Manufacturer	Effective Rate of Duty	Duty Method
Sahathai Steel Pipe Public Company Limited	5.7%	Ad valorem
Pacific Pipe Public Company Limited	15.1%	Ad valorem
Samchai Steel Industries Public Company Limited	19.8%	Ad valorem
Uncooperative and all other exporters	29.7%	Ad valorem

Table 4: Effective rate of dumping duties and duty methods

12 RECOMMENDATION

The Commissioner is satisfied that:

- the dumping of HSS exported to Australia from Thailand has caused material injury to the Australian industry producing like goods (Chapter 8 refers).

The Commissioner recommends the Parliamentary Secretary impose:

- dumping duties on HSS exported to Australia from Thailand (Chapter 11 refers).

The Commissioner recommends the Parliamentary Secretary be satisfied:

- in accordance with subsection 269TAB(3), that sufficient information has not been furnished, or is not available, to enable the export price of HSS exported to Australia from Thailand by the category of 'uncooperative exporters' to be determined under subsection 269TAB(1)(a), (b), or (c) (Chapter 6 refers);
- in accordance with subsection 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of HSS exported to Australia from Thailand to be ascertained under subsections 269TAC(1), (2), (4) or (5D) for the category 'uncooperative exporters' (Chapter 6 refers);
- in accordance with subsection 269TG(1) the amount of the export price of HSS exported to Australia from Thailand is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused (Chapter 8 refers);
- in accordance with subsection 269TG(2) the amount of the export price of HSS exported to Australia from Thailand is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia from Thailand in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused (Chapter 9 refers);

The Commissioner recommends the Parliamentary Secretary determine:

- in accordance with subsection 269TAB(3), the export prices for the categories of 'uncooperative exporters' of HSS exported to Australia from Thailand be determined having regard to all relevant information (Chapter 6 refers);
- in accordance with subsection 269TAC(6), normal values for the categories of 'uncooperative exporters' of HSS exporters to Australia from Thailand having regard to all relevant information (Chapter 6 refers);
- in accordance with subsection 269TACB(1) by comparison of the weighted average of export prices during the investigation period and the weighted average of normal values during that period, that exports of HSS from Thailand were dumped (Chapter 6 refers).

PUBLIC RECORD

The Commissioner recommends the Parliamentary Secretary direct:

- in accordance with subsection 269TAC(8), the price paid or payable for like goods sold in Thailand be taken to be such a price adjusted for differences between domestic and export sales to ensure a fair comparison (Chapter 6 refers).

The Commissioner recommends the Parliamentary Secretary compare:

- in accordance with subsection 269TACB(2)(a), 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 (Chapter 6 refers).

The Commissioner recommends the Parliamentary Secretary declare:

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to:
 - the goods exported by all exporters from Thailand to the extent permitted by section 269TN; and
 - like goods that were exported to Australia by all exporters from Thailand, after the Commissioner made a PAD under subsection 269TD(1) on 16 March 2015 but before publication of the notice, to the extent permitted by section 269TN (Attachment 3 refers); and
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from Thailand after the date of publication of the notice (Attachment 3 refers).

The Commissioner recommends the Parliamentary Secretary have regard:

- in accordance with subsection 8(5B) of the Dumping Duty Act, to the desirability of fixing a lesser amount of duty than the dumping margins found, where the imposition of that lesser amount is adequate to remove injury (Chapter 10 refers).

13 APPENDICES AND ATTACHMENTS

Attachment 1	Recent previous cases summary
Attachment 2	List of submissions
Confidential Attachment 3	ATM's operational capabilities table
Confidential Attachment 4	ATM's Newcastle Plant's production schema
Confidential Appendix 1	Comparison of Thai HSS imports with total HSS imports
Confidential Appendix 2	DM calculations for uncooperative exporters
Confidential Appendix 3	Price undercutting analysis
Confidential Appendix 4	Profit effects analysis
Confidential Appendix 5	ACBPS import data beyond the investigation period
Confidential Appendix 6	Non-injurious price analysis
Confidential Appendix SAHA 1	Export prices
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Confidential Appendix PACIFIC SUB 1	Comparison of Thai AS1163 prices
Confidential Appendix PACIFIC 1	Export prices
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