



INVESTIGATION 234

**ALLEGED DUMPING OF
QUENCHED AND TEMPERED STEEL PLATE
EXPORTED FROM FINLAND, JAPAN AND SWEDEN**

VISIT REPORT - IMPORTER

COMMERCIAL METALS PTY LTD

<p>THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION</p>
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JUNE 2014

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ABBREVIATIONS

\$	Australian dollars
The Act	<i>Customs Act 1901</i>
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
Bisalloy	Bisalloy Steels Pty Ltd
CFR	Cost and freight
Commercial Metals	Commercial Metals Pty Ltd
the Commission	Anti-Dumping Commission
DDP	Delivered duty paid
██████	████████████████████
FOB	Free On Board
GAAP	Generally accepted accounting principles
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
NSSMC	Nippon Steel & Sumitomo Metal Corporation
P&L	Profit and loss
Q&T steel plate	Quenched and Tempered steel plate
REQ	Response to Exporter Questionnaire
SEF	Statement of Essential Facts
██████	████████████████████
TT	Telegraphic transfer

1 BACKGROUND AND PURPOSE

1.1 Background

On 20 November 2013, Bisalloy Steels Pty Ltd (Bisalloy) lodged an application with the Anti-Dumping Commission (the Commission) requesting that the relevant Minister publish a dumping duty notice in respect of Quenched and Tempered steel plate (Q&T steel plate) exported to Australia from Finland, Japan and Sweden.

On 10 December 2013, Bisalloy provided further information and data in support of its application. As a result, the Commission restarted the 20 day period for considering the application.

After consideration of the application, an investigation was initiated on 8 January 2014, and public notification of the initiation of the investigation was published in *The Australian* on that day.

Anti-Dumping Notice (ADN) No. 2014/01 refers to the initiation of the investigation, and is available at www.adcommission.gov.au.

The Commission has not previously conducted any dumping investigations in respect of Q&T steel plate.

1.2 Purpose of visit

The purpose of the visit was to:

- confirm that Commercial Metals Pty Ltd (Commercial Metals) is the importer of Q&T steel plate attributed to it within the Australian Customs and Border Protection Service's (ACBPS) import database and obtain information to assist in establishing the identity of the exporter of the Q&T steel plate;
- verify information on imports of Q&T steel plate to assist in the determination of export prices;
- establish whether the purchases of Q&T steel plate were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for Q&T steel plate; and
- provide Commercial Metals with an opportunity to discuss any issues it believed relevant to the investigation.

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1.3 Meeting details

Company	Commercial Metals Pty Ltd Level 6, 697 Burke Road Camberwell, Victoria
Date of visit	Friday, 7 March 2014

The following were present at various stages of the meeting:

Commercial Metals Pty Ltd	Mark Drury – National Marketing Manager, Flat Products Dave Last – Sales Manager, Flat Products Tahlia Madden – Administration Officer
the Commission	Rebecca Oliver – Supervisor, Operations 4 Anthea Hung – Supervisor, Operations 3 Angela Kidson – Assistant Investigator, Operations 4

1.4 Investigation process and timeframes

Commercial Metals were advised of the investigation process and timeframes as follows.

- The investigation period is 1 January 2013 to 31 December 2013.
- The injury analysis period is from 1 January 2010 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (10 March 2014) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

The Commission will not make a PAD until (and if) it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.

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

- The Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) will be the decision maker for this investigation.¹ The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 28 April 2014 or such later date as the Parliamentary Secretary allows under s.269ZHI of *the Customs Act 1901* (the Act).

¹ In December 2013, the Minister for Industry delegated responsibility for Anti-Dumping matters to the Parliamentary Secretary to the Minister for Industry.

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

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

This final report is due no later than 12 June 2014, unless an extension to the SEF is approved by the Parliamentary Secretary.

1.5 Visit report

Commercial Metals were advised that the Commission would prepare a report of the visit (this report) and provide it to Commercial Metals to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

It was explained that, in consultation with Commercial Metals, the Commission would prepare a non-confidential version of the report, and place this on the investigation's public record.

2 THE GOODS

2.1 Description

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

Flat rolled products of alloyed steel plate commonly referred to as Quenched and Tempered ("Q&T") steel plate (although some Q&T grades may not be tempered), not in coils, not further worked than hot rolled, of widths from 600mm up to and including 3,200mm, thickness between 4.5-110mm (inclusive), and length up to and including 14 metres, presented in any surface condition including but not limited to mill finished, shot blasted, primed (painted) or un-primed (unpainted), lacquered, also presented in any edge condition including but not limited to mill edge, sheared or profiled cut (i.e. by Oxy, Plasma, Laser, etc.), with or without any other minor processing (e.g. drilling).

Goods of stainless steel, silicon-electrical steel and high-speed steel, are excluded from the goods covered.

In support of the goods description, Bisalloy stated that Q&T steel plate comprises grades with typical mechanical properties as follows:

- *High Hardness/Abrasion resistant Q&T steel plate (more commonly referred to as 'Wear' Grade Q&T steel plate) of Brinell hardness (HBW – 10/3000) range 320-640 or equivalent Rockwell C hardness range 34 – 59 or equivalent Vickers hardness range 230-670;*
- *High Strength Q&T steel plate (commonly referred to as 'Structural/High Tensile' Grade Q&T steel plate) of 0.2% Proof Stress of 475-890 MPa (min); and*
- *High Hardness/Impact resistant Armour Grades (more commonly referred to as 'Armour' Grade Q&T steel plate) of hardness up to 640 Brinell (HBW – 10/3000).*

For further details regarding the goods, refer to ADN 2014/1.

2.2 Tariff classification

Goods identified as Q&T steel plate are classified to tariff subheading 7225.40.00 in Schedule 3 to the *Customs Tariff Act 1995*.

Tariff subheading 7225.40.00 refers to flat-rolled products of other alloy steel, of a width of 600mm or more – other, not further worked than hot-rolled, not in coils. The relevant statistical codes are:

- statistical code 21 - high alloy: quenched and tempered; and
- statistical code 23 - other: quenched and tempered.

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Bisalloy also claimed in its application that some imported Q&T steel plate has been incorrectly classified to subheading 7225.40.00, statistical codes 22 and 24. The Commission will seek further clarification on this matter during the course of the investigation.

For tariff subheading 7225.40.00, the general rate of duty is 5% for goods imported from Finland, Japan and Sweden.

3 COMPANY DETAILS

3.1 Company background

Commercial Metals was established in 1980 as an importer and marketer of long and flat steel products for the Australian market. Commercial Metals is a subsidiary of US based Commercial Metals Company Ltd, which is publicly listed on the New York stock exchange. The Commercial Metals Group operates offices in North America, Europe, Asia and Australasia. Commercial Metals operates three divisions across Australia: steel trading, steel distribution and raw materials.

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

3.1.1 General background

Commercial Metals is one of the largest marketers of imported steel in Australia. It has sales offices in Melbourne, Sydney, Perth and Brisbane and primarily sells to the distribution and reseller network.

Commercial Metals utilises warehouse facilities at several Australian ports for distribution purposes for just in time delivery and logistics management.

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

Commercial Metals competes in the Australian market on price, quality and reliability of the products, financing alternatives (i.e. credit terms) and additional services including delivery options.

Commercial Metal states that it provides distributors and resellers in the Australian market an alternative supply of steel products. In terms of placing orders, Commercial Metals bundles smaller orders into larger orders that are acceptable quantities for the overseas mills.

Commercial Metals estimated that its sales of Q&T steel plate accounted for [REDACTED] of the company revenue. Commercial Metals explained that some of its imports of Q&T steel plate are sold to customers in [REDACTED].

3.2 Accounting structure and details of accounting systems

Commercial Metals stated that its financial year runs from 1 September to 31 August as its headquarters are based in the United States. On 1 November 2012, Commercial Metals installed a new Oracle accounting system replacing its previous Navision system.

3.3 Importer questionnaire

Commercial Metals completed an importer questionnaire, providing details regarding the company, overseas supplier information, imports, expenses, and sales. A copy of

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Part A (company and supplier details) of Commercial Metals' questionnaire response is at **Confidential Attachment 1**.

3.4 Relationship with suppliers and customers

3.3.1 Suppliers

During the investigation period Commercial Metals purchased █% of its imports from Nippon Steel & Sumitomo Metal Corporation (NSSMC) in Japan through a trading company, █ also located in Japan. Commercial Metals explained that NSSMC is the result of a merger of the two large Japanese steel mills Nippon Steel and Sumitomo Metal Corporation in 2012.

Commercial Metals stated that it had previously imported Q&T steel plate from █ but ceased doing so in 2012.

Part C of Commercial Metals' importer questionnaire response (sales listing) lists one sale during the investigation period of █ Q&T steel plate manufactured by █.

Commercial Metals explained that this sale was a result of its 'just in time' (JIT) delivery option, whereby goods are imported by a customer, and drawn down as required. This █ product was likely to have been imported in 2012, but the customer has only during the investigation period sought delivery of the goods and been invoiced for it.

Commercial Metals stated that it does not purchase Q&T steel plate from the Australian industry (Bisalloy) or other Australian importers, and that during the investigation period it only purchased Q&T steel plate manufactured by NSSMC.

3.3.2 Customers

Commercial Metals described its customers as processors, distributors and end users. Commercial Metals stated that processors specialised in plate profiling including cutting and drilling the Q&T steel plate. Commercial Metals understands its end user customers are generally in the mining and transport sectors.

Following the visit, Commercial Metals provided the Commission with a revised sales listing. This revised sales listing is discussed further in Section 6.1 and forms **Confidential Appendix 1**. A small number of sales included in the revised sales listing were made by Commercial Metals to 'CMC Distribution Pty Ltd'. Those sales represent █% of Commercial Metals' overall sales volume of Q&T steel plate during the investigation period. On average, selling prices to CMC Distribution Pty Ltd were █% higher than Commercial Metals weighted average selling price.

3.5 'Like Goods'

As part of its application, Bisalloy provided the following tables comparing its Q&T steel plate grades to imported grades from Finland, Japan and Sweden.

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Bisalloy Steels' Bisplate Q&T Steel Plate import comparisons - Wear and Armour grades							
		Q&T Brandname(s)	High Hardness/Abrasion resistant- Wear & Armour Grades (HBW-10/3000)				
Country	Company	Wear (Brinell HBW-10/3000)	320-380	400	450	500	600
Australia	Bisalloy Steels Pty. Ltd.	Bisplate - BISXXX (Wear) Bisplate- HHA, UHTA, UHH & HIA (Armour)	BIS320	BIS400 HIA	BIS450 UHTA	BIS500 HHA	BIS600 UHH
Sweden	SSAB (Swedish Steel)	Hardox XXX(wear) Armox XXX(Armour)	Hardox Hi-Tuff Armox 370T	Hardox 400 Armox 400T	Hardox 450 Armox 440T	Hardox 500 Armox 500T	Hardox600 Armox 600T
Japan	NSSMC (Nippon Steel & Sumitomo Metal Corp.)	Wel-Ten AR XXXX (wear) SUMIHARD K XXX (wear) ABREX XXX(Wear)	AR360E K340	AR400E K400 ABREX400 ABREX400LT	K450 ABREX 450 ABREX400LT	AR500E K500 ABREX 500 ABREX 500LT	ABREX 600
Japan	JFE (Total Steel)	Everhard EHXXX (Wear)	EH360E EH360A EH360LE	EH400 EHSP	EH450	EH500 EH500LE EHS500	EHS600
Finland	RUUKKI	RAEX XXX (Wear)	Raex 300	Raex 400	Raex 450	Raex 500	

Table 1: Bisplate Q&T steel plate import comparison for wear and armour grades

Bisalloy Steels' Bisplate Q&T Steel Plate import comparisons -High Strength (High Tensile) Structural grades							
		Q&T Brandname(s)	High Strength (High Tensile) - Structural Grades				
Country	Company	0.2% Proof Stress (Min.) Tensile Strength (Range)	400MPa 450-580MPa	500 MPa 590-730MPa	600 MPa 690-830MPa	690 MPa 790-930MPa	890 MPa 940-1100MPa
Australia	Bisalloy Steels Pty. Ltd.	Bisplate -BISXX	BIS60	BIS60	BIS70	BIS80 BIS80PV	BIS100
Sweden	SSAB (Swedish Steel)	Weldox XXX				Weldox 700	Weldox 900 Weldox 960 Weldox1100
Japan	NSSM (Nippon Steel & Sumitomo Metal Corp)	Wel-Ten XXX (Nippon) SUMITEN XXX (Sumitomo) SBHSXXX (NSSMC)	WEL-TEN 590 SUMITEN590	WEL-TEN 600 SUMITEN 610	WEL-TEN 690 SUMITEN 690 SBHS500	Wel-TEN 780 SUMITEN 780S SBHS700	WEL-TEN 950 SUMITEN950
Japan	JFE (Total Steel)	HITEN XXX (Structural)	HITEN590	HITEN 610	HITEN710	HITEN 780	HITEN980
Finland	RUUKKI	OPTIM XXXQL				OPTIM 700 QL	

Table 2: Bisplate Q&T steel plate import comparison for structural/high tensile grades

Commercial Metals reviewed information provided by Bisalloy in the application in relation to the comparable brands of Q&T steel plate (as set out in tables above). Commercial Metals confirmed that the NSSMC Q&T steel plate grades identified by Bisalloy in its application were reasonably equivalent to the grades of Q&T steel plate produced by Australian industry.

Commercial Metals explained that the merger of Nippon Steel and Sumitomo Metal Corporation in 2012, resulted in some branding cross over for Q&T steel plate. Different brands produced when these companies were separate are still available in the market, explaining why there are a number of Q&T steel plate brands associated with NSSMC.

Commercial Metals noted that information provided in the application does not include the 'Wel-hard' Nippon Steel brand Q&T steel plate. Commercial Metals explained that the 'Wel-hard' wear grade Q&T steel plate is produced via a continuous process (i.e. the quenching and tempering takes place during the hot rolling process). Commercial Metals stated that this continuous process resulted in greater flexibility in the Q&T steel plate.

Commercial Metals' revised sales listing provides that the 'Wel-hard' brand of Q&T steel plate made up less than 1% of sales volume in the investigation period. The

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majority of Commercial Metals sales were for the Wel-ten Q&T steel plate structural grade (■ per cent of the Q&T steel plate sales volume) and ■ per cent was for the Abrex wear grade Q&T steel plate.

Commercial Metals commented that there are no accepted standards for Q&T steel plate in the Australian market instead the market is supplied based on brand names. Commercial Metals observed that customers will generally request a Swedish or Japanese Q&T steel plate over Bisalloy's products. Commercial Metals asserted that there were a number of reasons for this preference, including:

- Bisalloy has experienced problems with the flatness of its Q&T steel plate, particularly in the 5-12mm thickness range,
- there is potential inconsistency in the performance of Bisalloy's product because of the raw material input is from two sources, China and BlueScope Steel Limited,
- Bisalloy is relying on old technology and plant equipment, this particularly affects the consistency of its furnace temperature, and
- Bisalloy's production process does not use as many levellers as other manufacturers.

4 AUSTRALIAN MARKET

4.1 Market conditions

Commercial Metals stated that current market conditions for Q&T steel plate are the worst it has experienced in 20 years. Commercial Metals stated that in September 2012, demand for Q&T steel plate dropped significantly, as mining projects were cancelled mid-stream, particularly in Western Australia. Commercial Metals stated that the market is currently flooded with surplus Q&T steel plate.

Commercial Metals advised that SSAB Swedish Steels Pty Ltd (SSAB) is the price leader in the Australian market, and commented that that SSAB has been very aggressive in its pricing.

Commercial Metals noted that in the current market, end users often receive better prices than distributors and processors. It also advised that it considered its customers to be similar to Bisalloy's customers.

4.2 Sales of imported goods

Commercial Metals identified its customers in three categories: distributor, end user and processor. Of the three categories, ■ per cent of sales by value during the investigation period were to distributors.

Approximately ■ per cent of its sales were to ■ and ■ per cent to ■. Approximately ■ per cent of sales were made to a related party CMC Distribution Pty Ltd, with the remaining sales made to a number of different customers. As noted above, a small number of sales are made to customers located in ■.

4.3 Price and distribution arrangements

Commercial Metals explained that it established its prices of imported Q&T steel plate to customers based on the purchase price from the mill and associated importation costs. Discount and rebates were not provided to customers, nor did it have particular price arrangements with specific customers. Commercial Metals noted that it did not enter into long term contracts with its customers.

Commercial Metals stated that it generally sought to make sales on a delivered duty paid (DDP) basis, as it considers that one of its strengths is its ability to organise shipment and delivery. Prior to the visit, the Commission identified two transactions to its customer ■ which were sold on cost and freight (CFR) basis. Commercial Metals explained that it does not usually sell to its customers on a CFR basis but in isolated circumstances will sell product on terms other than DDP, at the request of the customer. In the case of these two sales, Commercial Metals advised that the CFR terms of sales were either attributed to a specific request by the customer or a system error.

4.4 Sales verification (accuracy)

Following the visit, Commercial Metals provided commercial invoices, payment remittances and proof of payment for 14 sales selected by the Commission. The commercial invoices provided a description of the goods and the prices. Copies of these documents are at **Confidential Attachment 2**.

Remittance advices for the goods were provided for all selected invoices except for three transactions – two from [REDACTED] and one from [REDACTED]. Commercial Metals advised that remittance advices for [REDACTED] were unavailable but provided the corresponding bank statements for each invoice. The details on both statements matched those on the commercial invoice. Neither a remittance advice nor a bank statement could be provided for [REDACTED] as the payment was not yet due.

Although proof of payment could not be provided for this selected sale, the Commission was able to reconcile all other sales to the revised sales listing (See – Section 4.6, **Confidential Appendix 1**). The Commission is therefore satisfied that invoice details recorded in Commercial Metals sales listing are reasonably accurate.

4.5 Upwards verification (completeness)

The Commission requested Commercial Metals to provide documents for the purpose of upwards reconciliation from Commercial Metals revised sales listing to its management accounts.

Commercial Metals provided:

- a complete sales listing for all goods sold by Commercial Metals generated from its Oracle management accounts (this listing forms part of the revised sales listing – Confidential Appendix 1);
- profit and loss (P&L) statements for the steel division for the months of August and December 2013 (**Confidential Attachment 3**).

Commercial Metals provided a sales listing of its Q&T steel plate sold in the investigation period as part of its importer questionnaire response (Confidential Attachment 1). At the visit the Commission attempted to reconcile the total volume and value shown in this sales listing to Commercial Metals Oracle generated report filtered to show Q&T steel plate sold in the investigation period. To undertake this reconciliation the Commission selected the month of December 2013 to confirm on a line-by-line basis that all the sales identified in the sales listing provided matched Commercial Metal's Oracle generated December 2013 report for Q&T steel plate. Within the December Oracle report, one Q&T steel plate sale was identified that was not included in the supplied sales listing. Commercial Metals could not explain why this sale which was within the goods description for Q&T steel plate, was not included in the sales listing provided to the Commission. The Commission therefore requested a revised Q&T steel plate sales listing for the investigation period. The revised sales listing, generated from Oracle, forms Confidential Appendix 1.

Following the visit the Commission used the sales data generated by Commercial Metals Oracle system (described above) in order to complete the upwards

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verification process instead of the initial response to the importer questionnaire. This sales data was provided to the Commission and forms Confidential Appendix 1. The Oracle sales data included all of Commercial Metals sales, across a number of product groups including Q&T steel plate. This Oracle sales data included transactions from 2012 to 2014, and transactions to locations outside Australia.

As noted above, Commercial Metals provided at the visit, P&L statements for its steel division for the months of August and December 2013 (Confidential Attachment 3). The Commission compared revised sales listing filtered to include only steel product line items, and only goods sold to locations in Australia, to the total sales volume and value shown in the August and December 2013 P&L statements provided.

For the month of December 2013, the Commission was able to reconcile by value the P&L statement to the Oracle sales data. Reconciliation of sales by volume for December 2013 resulted in a variance of approximate 5 per cent. For the month of August 2013, the Commission noted significant variances between the P&L statement and the Oracle sales data. By sale value this variance was ■ per cent and ■ per cent by total sales volume. The Commission also sought to verify the year to date sales revenue and total tonnes sold as reported in the August P&L statement (noting that August is the end of Commercial Metals financial year) to the Oracle sales data. Again the Commission observed significant variance of ■ per cent for sales value and ■ per cent for sales volume. Commercial Metals explained that the variances were due to differences between the invoice dates and revenue recognition dates.

Commercial Metals did not provide further financial accounts or information for reconciliation purposes. The Commission attempted to reconcile the August 2013 P&L statement for the steel division with the Commercial Metals 2013 parent company annual report. The Commission observed that Commercial Metals parent company annual report included net sales figures broken down by business products. Separate net sales figures were also provided by geographical area i.e. Australia/New Zealand, however these figures were not broken down to product group (i.e. steel division). The Commission was therefore unable to reconcile upwards to these audited financial accounts from the August 2013 P&L statement for the steel division.

The Commission has also compared the total volume of Commercial Metals imports of Q&T steel plate as recorded in the ACBPS commercial database of ■ tonnes (refer to Section 5.1) in the investigation period to the volume of sales in Commercial Metals revised sales listing (Confidential Appendix 1). The Commercial Metals revised sales listing indicates that it sold approximately ■% more Q&T steel plate than it imported in the investigation period. As explained in Section 3.3.1 some of these additional sales may have been due to Commercial Metals just in time delivery option, whereby a customer's order is imported and the drawn down over time.

Overall the Commission is unable to reconcile the Commercial Metals sales data to the P&L statements provided (with the exception of one month's sale value). Commercial Metals failed to provide any further information for the purpose of completing the verification of its sales data. Being unable to complete the full

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upwards verification process, the Commission is not satisfied that the sales listing was reasonably complete and relevant.

4.6 Profitability of sales

For the purpose of testing the profitability of sales, the Commission selected nine shipments (total selling price minus cost to import and sell) in the importer transaction form.

The Commission calculated the total profit for each of the nine selected shipments (total selling price minus cost to import and sell) in the importer transaction form.

The Commissioner determined that [REDACTED] shipments were profitable. The range of profit for the selected shipments was calculated as between [REDACTED]. The Commission observes that overall, the selected shipments were profitable, with a weighted average profit of [REDACTED] %.

5 IMPORTS

5.1 Volume of Trade

Based on data from the ACBPS commercial database, Commercial Metals imported [REDACTED] tonnes of Q&T steel plate during the investigation period under tariff classification 7225.40.00. Some of these imports were made using Commercial Metals previous company name CMC Australia Pty Ltd.

During the course of its investigation the Commission has become aware of imports of Q&T steel plate being classified to an additional tariff classification 7255.99.00 (this is an 'all other' category tariff classification). The ACBPS commercial database indicates that Commercial Metals imported an additional [REDACTED] tonnes of Q&T steel plate under the tariff classification 7255.99.00 during the investigation period.

Commercial Metals stated that the use of this 'all other' category classification was likely to be due to the commercial invoice from the overseas mill not being sufficiently clear enough for the customs agent to determine a more appropriate classification.

As part of the importer questionnaire, Commercial Metals was asked to review its listing of imports over the investigation period as reported in the ACBPS commercial database. Commercial Metals indicated that all the goods listed were the goods under consideration (the Commercial Metals imports listing forms **Confidential Appendix 2**).

The Commission compared the quantity data within Commercial Metal's completed importer transaction form for the nine selected importations to the data from the ACBPS commercial database. The quantity data within the importer form reconciled to the ACBPS commercial database.

5.2 Order process and pricing

Commercial Metals stated that the majority of its imports are direct orders from customers that are placed with the overseas mill, and once imported, delivered to the customer. Commercial Metals stated that it will sometimes purchase additional Q&T steel plate to meet a minimum order requirement, however Commercial Metals stated that it does not view itself as a stockist.

Commercial Metals described its ordering process as follows:

- a customer will approach Commercial Metals with a requirement for Q&T steel plate, alternatively Commercial Metals on an ad hoc basis, issues offers for Q&T steel plate from NSSMC to its customers,
- Commercial Metals negotiates the price of the Q&T steel plate through its trading company, [REDACTED]. Commercial Metals advised that the price of Q&T steel plate is driven by grade, thickness and arrival time.
- Once the negotiations are finalised, [REDACTED] places the order with NSSMC, arranges the trading documents and organises the ocean freight.

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- Commercial Metals hedges the currency at the time of placing the order.
- [REDACTED]. [confidential trading arrangement]
- The title of the goods passes to Commercial Metals once the goods are on-board and its takes out marine insurance to cover risks during transportation (CFR terms).
- The lead time for production is 2 to 3 months with additional 1 to 2 months transportation time depending on vessel availability.

5.3 Verification of imports

Prior to the visit, the Commission initially selected six shipments from the ACBPS import database and asked Commercial Metals to prepare a listing of all associated costs for these shipments (importer transaction form – Part B of the importer questionnaire).

The Commission, upon becoming aware of the additional tariff classification 7225.99.00 (discussed in Section 4.2), selected an additional three shipments from the ACBPS commercial database listing for this tariff classification for verification with Commercial Metals.

Commercial Metals provided source documents to verify the data in its importer transaction form for the nine selected shipments (these documents form **Confidential Attachment 4**).

These source documents included the relevant:

- purchase order;
- commercial invoice and proof of payment;
- packing lists;
- inspection certificate;
- bills of lading;
- customs broker invoice and proof of payment;
- port service charges and proof of payment;
- inland transportation invoice and proof of payment;
- customer purchase order; and
- invoice to Commercial Metal's customer and proof of payment.

Following the visit, Commercial Metals made some adjustments to its importer transaction form. The revised importer transaction form is at **Confidential Appendix 3**.

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5.3.1 Supplier invoice details

The Commission matched the invoice price, volume and supplier details for all nine shipments on the revised importer transaction form to the supplier invoices. The revised importer transaction form also identified the Q&T steel plate by grade. As such, the Commission was also able to match this grade information to the invoices supplied for each shipment, and confirmed that the Q&T steel plate was within the goods description.

The Commission confirmed, using the supplier invoices that all shipments were invoiced at [REDACTED] and payment terms were [REDACTED] as recorded on the revised importer transaction form.

All shipments were invoiced in [REDACTED] and Commercial Metals explained that it takes out foreign currency cover at the time of placing the order. The Commission was able to reconcile the exchange rates recorded in importer transaction form to an email from Commercial Metals treasury department confirming the exchange rate cover for each of the selected shipments (these documents forms part of Confidential Attachment 4).

Commercial Metals provided an account ledger extract for each shipment demonstrating payment to Hanwa for the value of the commercial invoice (this evidence forms part of Confidential Attachment 4). The Commission was able to match the account ledgers for each shipment to the commercial invoice provided, and considers this to be reasonable evidence of payment for the goods.

5.3.2 Shipment costs

As noted in Section 4.3.1, almost all of Commercial Metals shipments during the investigation period terms were CFR. As such, Commercial Metals included under the 'shipment costs' heading in the importer transaction form, only its marine insurance cost. Marine insurance was calculated at a rate of [REDACTED] per cent of the revenue for each shipment. To substantiate this calculation, Commercial Metals provided a copy of its marine insurance policy which displayed this rate (this evidence forms part of Confidential Attachment 4).

5.3.3 Importation costs

Under the heading of 'Australian Importation Costs' in the importer transaction form, Commercial Metals entered amounts for customs entry fees and duty, customs broker fee, port service charges, delivery, sorting and stacking charge, cartage and agents commission.

Commercial Metals original importer transaction form had in addition to the costs identified above, included bank charges which reflected an estimated cost associated with the [REDACTED] payments to its supplier. During the verification of the selling, general and administration (SG&A) costs, the Commission noted that Commercial Metals P&L statement included banking expenses and questioned whether the costs of the [REDACTED] were already included in this expense. Following the visit, Commercial Metals provided advice from its accounts department that the costs associated with the [REDACTED] were included in the

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SG&A costs and revised the importer transaction form to exclude this expense. The advice of the accounts department forms **Confidential Attachment 5**.

Commercial Metals explained that its customs broker fee was calculated based on its monthly brokerage fee divided by the number of contracts for that month. Commercial Metals stated its monthly customs broker fee and provided evidence of the number of contracts for each month for each of the selected shipment (these documents form part of Confidential Attachment 4).

In respect of the agent's commission included in the importer transaction form, Commercial Metals explained that from June 2013 it paid a monthly retainer to its Japanese agent, [REDACTED], of USD \$[REDACTED]. This fee was then divided by the number of contracts for that month. Commercial Metals provided evidence of payment of the monthly retainer from June to December 2013 (**Confidential Attachment 6**), however no evidence was provided to demonstrate the number of contracts for each month. For the shipments ordered prior to June 2013, Commercial Metals advised that no agent commission was incurred.

For the remaining customs entry fees and duty, port service charges, delivery, sorting and stacking charge and cartage charges recorded in the importer transaction form, the Commission compared these amounts with the provided customs broker invoice, port services charge invoices and cartage invoices, and found the charges displayed on these invoices matched the importer transaction form (albeit with some minor errors which the Commission corrected). These invoices form part of Confidential Attachment 4.

Using the verified data in the importer transaction form, weighted average importation costs in \$AU/Tonne have been calculated in the table below.

Item	Average cost \$AU/T
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
Total	[REDACTED]

5.3.4 Selling, general and administrative (SG&A) costs

Commercial Metals calculated selling, general and administration (SG&A) costs for each of the nine selected shipments based on an SG&A estimate of [REDACTED] per cent.

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Commercial Metals explained that it calculated this SG&A expense based on its P&L statement for the month of August 2013 (Commercial Metals financial year ends August), which showed its actual year to date SG&A expenses to be [REDACTED] % of sales revenue. This P&L statement forms part of Confidential Attachment 3.

The Commission observes that this SG&A expense reflects Commercial Metals actual SG&A expense for its most recent financial year (ending August) which covers eight months of the investigation period. The Commission considers this to be a reasonable SG&A expense estimation.

Under the SG&A costs heading in the importer transaction form, Commercial Metals also included a credit insurance charge, calculated at \$ [REDACTED] per tonne. Commercial Metals explained that this rate was calculated by applying its credit insurance premium rate of [REDACTED] % (the credit insurance certificate forms part of Confidential Attachment 4) to its total revenue and divided by the total sales volume for the financial year 2013 as shown in its August P&L statement (Confidential Attachment 3).

5.4 Export prices for selected shipments

Based on the verification of the nine selected shipments, the weighted average CFR export price (in AUD) for the goods over the investigation period was calculated.

These calculations are summarised in the table below.

Q&T Steel Plate	Total
Wear grade	[REDACTED]
Structural grade	[REDACTED]
Total weighted average export price	[REDACTED]

5.5 Forward orders

Commercial Metal's importer questionnaire response indicated that there were [REDACTED] forward orders, accounting for [REDACTED] tonnes with an expected arrival dates between December 2013 and April 2014.

The Commission noted that the volume of these forward orders represents approximately [REDACTED] per cent of the total volume of Q&T steel plate imported during the investigation period.

Commercial Metals noted that most of these forward orders were direct customer order and commented that there was still underlying demand for Q&T steel plate in the Australian market notwithstanding the perceived oversupply.

6 WHO IS THE IMPORTER AND EXPORTER

6.1 Who is the importer?

The documents provided by Commercial Metals were reviewed in respect of the selected shipments. It was noted that, for imports from NSSMC purchased through [REDACTED], Commercial Metals:

- negotiates with NSSMC through its trader [REDACTED];
- is named as the consignee on the bill of lading;
- is named as the buyer on supplier invoices;
- arranges and pays for marine insurance;
- has an insurable interest in the goods while they are on the water;
- arranges Customs clearance, logistics and storage of the goods after they are delivered to the Australian port;
- appears as the importer on the Customs declarations;
- retains ownership of the goods until they are delivered to its customers; and
- bears the risk of its customers defaulting on purchase agreements with Commercial Metals.

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

6.2 Who is the exporter?

The Commission will generally identify the exporter as:

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

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

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

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

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

To the Commission's knowledge, Commercial Metals supplier, [REDACTED] is a trader of Q&T steel plate.

Subject to further enquiries, the Commission considers NSSMC to be the exporter of the goods imported by Commercial Metals.

7 ARMS LENGTH

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

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

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

As discussed above, Commercial Metals stated that it has no relationship with its supplier other than a commercial buyer and seller relationship. It stated that it does not receive any reimbursement, rebates or other support from its supplier in respect of the goods. Commercial Metals advised that the invoice price was the price paid.

During our examination of the selected shipments we did not find any evidence, in respect of the purchase of Q&T steel plate, that:

- there is any consideration payable other than price;
- the price was influenced by the commercial relationship between Commercial Metals and its suppliers; and
- subsequent to the purchase, Commercial Metals received or will receive a benefit in respect of any part of the price.

Overall, it was determined that the selected shipments were profitable.

Accordingly, the Commission is satisfied that import transactions between Commercial Metals and its supplier are arms length in terms of s. 269TAA.

8 GENERAL COMMENTS

Commercial Metals raised the following matters during the visit:

- Bisalloy's business practices, in particular, of not selling directly to all customers and its BisExpress operations which are in direct competition with its distribution customers have lost Bisalloy market share,
- Issues with the quality of Bisalloy Q&T steel plate, as noted in Section 3.4, means that certain segments of the market will not buy Bisalloy products, and
- Japanese mills are not causing injury to Bisalloy. Commercial Metals stated that the aggressive pricing of SSAB, the price leader in the Australian market contributed to Bisalloy's injury.

9 RECOMMENDATIONS

From our investigations, we are of the opinion that, for the goods imported by Commercial Metals from NSSMC through the trader, [REDACTED]:

- the goods have been exported to Australia otherwise than by the importer, Commercial Metals;
- the goods have been purchased by the importer from the trader, [REDACTED]; and
- the purchases of the goods by the importer were arms length transactions.

The Commission is of the opinion that, for the goods imported by Commercial Metals from [REDACTED], the goods have been exported to Australia otherwise than by the importer. However, insufficient information has been provided by the importer to determine whether the goods have been purchased from the exporter.

Subject to further inquiries in relation to these shipments, we recommend that the export price for Q&T steel plate imported by Commercial Metals from [REDACTED] can be established under s.269TAB(1)(c) or s.269 TAB(3) of the Act.

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10 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Revised sales listing
Confidential Appendix 2	ACBPS imports listing
Confidential Appendix 3	Revised importer transaction form
Confidential Attachment 1	Importer questionnaire response
Confidential Attachment 2	Source documents for selected sales
Confidential Attachment 3	Profit and loss statement for August and December 2013
Confidential Attachment 4	Source documents for selected shipments
Confidential Attachment 5	Advice from Commercial Metals accounts department regarding banking expenses
Confidential Attachment 6	Evidence of agent's commission