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Australian Government

**Australian Customs and
Border Protection Service**

**INVESTIGATION INTO THE ALLEGED DUMPING AND
SUBSIDISATIONS OF CERTAIN HOLLOW STRUCTURAL
SECTIONS**

EXPORTED FROM

**THE PEOPLE'S REPUBLIC OF CHINA, MALAYSIA, THE
REPUBLIC OF KOREA, TAIWAN AND THAILAND**

IMPORTER VISIT REPORT

CROFT STEEL PTY LTD

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL
BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE
FINAL POSITION OF CUSTOMS AND BORDER PROTECTION**

November 2011

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2 BACKGROUND AND PURPOSE

2.1 Background to the current investigation

On 12 August 2011, OneSteel Australian Tube Mills Pty Ltd (ATM, the applicant) on behalf of the Australian industry manufacturing HSS, lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of HSS exported to Australia from The People's Republic of China (China), The Republic of Korea (Korea), Malaysia, Taiwan and Thailand and a countervailing duty notice in respect of HSS exported to Australia from China.

The application alleges that HSS has been exported to Australia from China, Korea, Malaysia, Taiwan and Thailand at prices lower than its normal value, that HSS exported to Australia from China has received countervailable subsidies, and that this dumping and subsidisation has caused material injury to the Australian industry producing HSS.

Following consideration of the application, the Australian Customs and Border Protection Service (Customs and Border Protection) decided not to reject the application. Public notification of initiation of the investigation was made in *The Australian* newspaper on 19 September 2011.

Australian Customs Dumping Notice (ACDN) No. 2011/43 provides further details of this investigation and is available at www.customs.gov.au.

The investigation period is 1 July 2010 to 30 June 2011. Customs and Border Protection will examine exports to Australia of the goods during that period to determine whether dumping has occurred. Customs and Border Protection will examine details of the Australian market from 1 July 2007 for injury analysis.

Prior to initiation of the investigation, Croft Steel Pty Ltd (Croft) was identified as a potential large importer of HSS from China, Korea, Malaysia and Taiwan in the investigation period in Customs and Border Protection's commercial database. Consequently, Croft was invited to participate in the investigation, and was provided with an Importer Questionnaire to complete.

Croft completed the Importer Questionnaire, providing details regarding the company, overseas supplier information, imports, expenses, and sales. A copy of Part A (company and supplier details) of Croft's questionnaire response is at **Confidential Attachment 1**.

2.2 Purpose of meeting

The purpose of this visit was to:

- confirm that Croft is the importer of HSS attributed to it within the commercial database and obtain information to assist in establishing the identity of the exporter(s) of this HSS;
- verify information on imports of HSS to assist in the determination of export prices;
- establish whether the purchases of HSS by Croft was in arms length transactions;

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- establish post-exportation costs incurred by Croft in importing HSS;
- identify Croft's sales and customers and verify sales volume, selling prices and selling costs;
- recommend how export price for importations of HSS by Croft may be determined under s. 269TAB of the *Customs Act 1901* (the Act)¹; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

2.3 Meeting

2.3.1 Introduction

At the meeting, Customs and Border Protection gave a general outline of the investigative process and reporting timeframes. Croft was also advised of the following:

- we would prepare a confidential report on the visit (this report), and before finalisation of the report, Croft would be given an opportunity to review the report for accuracy;
- Customs and Border Protection is required to maintain a Public Record of the investigation containing non-confidential copies of all reports, submissions, correspondence and other documents relevant to the case - we advised that the Public Record is available to interested parties; and
- a non-confidential version of this visit report would be prepared in consultation with Croft and placed on the Public Record.

We confirmed that Croft had been able to access the Public Record online through Customs and Border Protection's Electronic Public Record (EPR). Croft explained there were some delays in obtaining information from the EPR at first, but this has since been resolved.

2.3.2 Meeting Details

COMPANY	Croft Steel Pty Ltd
ABN	74 011 066 210
ADDRESS	1/26 Newheath Drive, Arundel QLD 4211
TEL NO	07 5500 0260
FAX NO	07 5500 0960
DATE	26 October 2011

¹ All references to legislative provisions within this report refer to the Act, unless specified otherwise.

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PRESENT	
Croft	Steven Croft, Managing Director Troy Morrow, Financial Controller Antonia Janssen, Office Manager
Customs and Border Protection	Andrea Stone, Case Manager, Operations 3 Rebecca Higgins, Supervisor, Operations 3

Prior to the meeting, Customs and Border Protection forwarded an agenda to Croft. A copy of the agenda is at **Confidential Attachment 2**.

Croft co-operated fully with the visit, making relevant staff available and providing copies of all requested documents.

2.4 Documents provided by Croft

As part of the Importer Questionnaire, Customs and Border Protection provided Croft a copy of a download from the Customs and Border Protection commercial database, and selected a line from 12 selected shipments from this listing further examination and verification.

As its response to Part B of the Importer Questionnaire, Croft completed a 'Cost to Import and Sell' importer transaction form for the selected lines within these 12 shipments. This importer transaction form included information for the import transaction itself to the sale of that shipment to Croft's Australian customer.

The importer transaction form has been revised following the verification to make corrections that we consider to be reasonable (as discussed throughout this report). The revised importer transaction form is at **Confidential Attachment 3**.

Within the visit agenda, we requested that Croft prepare packages of source documents to verify the data within the importer transaction form for each of the 12 selected shipments. As requested, Croft prepared and supplied these documents during the verification visit (**Confidential Attachment 4**).

In addition, as Part C of its response to the Importer Questionnaire, Croft provided a complete transaction by transaction list of its sales of HSS for the investigation period (**Confidential Attachment 5**). The listing includes the product code, quantity, invoice value and customer for each transaction.

Within the visit agenda, we requested Croft prepare and supply supporting documentation (invoices and proof of payment) for ten sampled sales transactions in Part C of the Importer Questionnaire (in addition to the sales attributed to the 12 selected shipments in the importer transaction form). Croft provided these documents, which form **Confidential Attachment 6**.

Croft provided further relevant documentation during the verification, discussed throughout this report.

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3 THE GOODS

3.1 Description

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

certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. 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 in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

The application includes the following information to clarify the nature of the goods.

Finishing

All HSS regardless of finish is included in the application.

Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

CHS with other than plain ends (such as threaded, swaged and shouldered) are also included in the application.

Standards

HSS is generally produced to either the British Standard BS 1387 or the Australian Standard AS 1163 or international equivalent standards (including ASTM/JIS and KS).

HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals (MPa).

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

Excluded goods

The following categories are excluded from the goods subject of the application:

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);

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- precision RHS with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes to AS.2556.

3.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37);
- 7306.61.00 (statistical codes.21, 22 and 23); and
- 7306.69.00 (statistical codes.26, 27 and 28).

The goods exported to Australia:

- from Korea and Taiwan are subject to a 5% rate of duty;
- from China and Malaysia are subject to a 4% rate of duty; and
- from Thailand using Thailand Free Trade Agreement rates are free from duty as of 1 January 2010.

There are numerous Tariff Concession Orders applicable to the relevant tariff subheadings.

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4 COMPANY DETAILS**4.1 Commercial operations****4.1.1 Organisational structure of company**

Croft is a privately owned Australian proprietary company limited by shares. Croft has [redacted] full time employees including Steven Croft, the sole director.

[redacted]
[redacted] [confidential – company shareholdings]

[redacted]
[redacted] [confidential – company shareholdings]

[redacted] [confidential – company ownership]

Croft advised that it has minority shareholding (through associated family entity) in two of its ASX listed customers, [redacted] and [redacted].
[redacted] [confidential – company ownership]

[redacted] [confidential –
company structure]

[redacted] [confidential – company structure]

[redacted] [confidential – company structure]

4.1.2 Functions of company

For the investigation period, Croft described itself as an importer of steel products, which also provided funding facilities and supply chain management to its customers. Croft advised that it also managed claims for damaged stock on behalf of its customers.

During the investigation period, Croft made offers to Australian customers, negotiated with overseas suppliers, arranged importation of goods, and delivered and sold imported goods to its Australian customers under agreed credit terms.

During the investigation period, imported product was pre-sold to customers at a free into store (FIS) price, however some sales were made at free on truck (FOT) terms (predominantly regional customers). We observed from Croft's provided sales listing (discussed further in Chapter 5 of this report) that sales at FIS terms represented approximately [redacted] % of Croft's sales during the investigation period.

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4.1.3 Product range

Croft advised that it imports and sells various steel products, including HSS, larger steel pipe and tube, sheet steel, steel bars and wire.

Croft advised that it imports a range of HSS products including rectangular, square and circular products in a variety of grades, sizes, gauges and finishes (including hot dipped galvanised (HDG), pre-galvanised, painted, black and no outside protective coating (also black HSS)). Croft advised that its HDG HSS is circular HSS (CHS).

Croft advised that it predominantly sources/supplies HSS to 250 and 350 MPa grades, but that it also supplies 450 MPa-graded HSS (approximating [REDACTED] % of its supply is this higher grade).

Croft also advised that it imports/supplies HSS to the applicable Australian standards (AS1163 for structural and AS1074 for non-structural pipe and tube).

In the investigation period, the goods represented approximately [REDACTED] % of Croft's sales volume.

4.1.4 Like goods

Croft advised that the Australian Steel Association (ASA) would be lodging a submission that addresses issues of like goods.

However, Croft advised that it does not consider that HDG CHS should be considered collectively with other finishes of HSS and is effectively a different product.

Croft advised that it understands that ATM no longer produces HDG HSS itself, having recently mothballed its Acacia Ridge plant.

Croft observed that pre-galvanised and in-line galvanised HSS (such as ATM's Supagal and Duragal) are not substitutes for HDG, which has the highest anti-corrosive properties.

4.2 Accounting

Croft explained that it uses [REDACTED] [software system], a web-based real time integrated accounting package for preparation of accounts and supply chain management. Accounts are prepared based on the financial year ending 30 June.

Croft provided us with a Profit and Loss Statement (P&L) for financial year ending 2011. Refer **Confidential Attachment 7**.

Croft also uses a classification system for job costing all HSS importations. An example of a pre-cost sheet for goods supplied is at **Confidential Attachment 8**.

Croft incurs various expenses in foreign currencies, generally [REDACTED] dollars. Croft explained that on the day of placing of the order by the customer and confirmation of supply by the supplier, the exchange rate is set for the contract, and generally hedged. Croft explained that currency movements between the date of order and the date of supply are irrelevant to the sales price for the contract.

For accounting purposes, Croft records foreign currency costs at the rate published on www.oanda.com as per the date of the supply invoice.

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Croft explained that, when the foreign currency cost is paid, the foreign exchange cover (FEC) utilised is the cost of the foreign currency. Foreign exchange gains or losses occur when there is a discrepancy between the rates on date of supply invoice and FEC contract utilised (which would have been established when the order was placed).

Croft provided a copy of its foreign exchange ledger for FY 2011 (**Confidential Attachment 9**). This demonstrates that in FY 2011, Croft made an overall foreign exchange [redacted] of [redacted]. Croft explained that this is not really a true [redacted] but more of a [redacted] in accounting terms.

4.3 Relationship with suppliers of the goods

Croft identified its suppliers of the goods during the period of the investigation as:

[redacted]

[redacted] [confidential – supplier details].

[redacted]

[redacted] [confidential -relationship with suppliers]

Croft advised that payment to [redacted] was in mixture of [redacted] dollars over the investigation period and terms [redacted]

[redacted]

Croft submitted that payment to all other suppliers are [redacted] dollars, with a variety of payment terms including:

[redacted]

[redacted] [confidential -payment

and other terms of transactions with suppliers]

4.4 Relationships with customers

Croft advised that it has around [redacted] Australian customers for the goods. Major customers are [redacted]

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[REDACTED]
Croft advised that it is not legally related to any of its customers except for [REDACTED]
[REDACTED] (see
Section 4.1).

[REDACTED] [confidential – relationship with suppliers]

[REDACTED]

[REDACTED] [confidential – sales
arrangements and customer details].

[REDACTED]

[confidential – comparison between related and unrelated customer pricing]

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5 AUSTRALIAN MARKET

5.1 General

Croft stated that the HSS market globally and in Australia has experienced a significant contraction of the market since the global financial crisis (GFC). This is the result of diminished demand, particularly from the construction sector and a lack of market confidence.

Croft considered that there has been no real recovery in the HSS market following the GFC, particularly due to its links with the housing construction sector, which remains deflated.

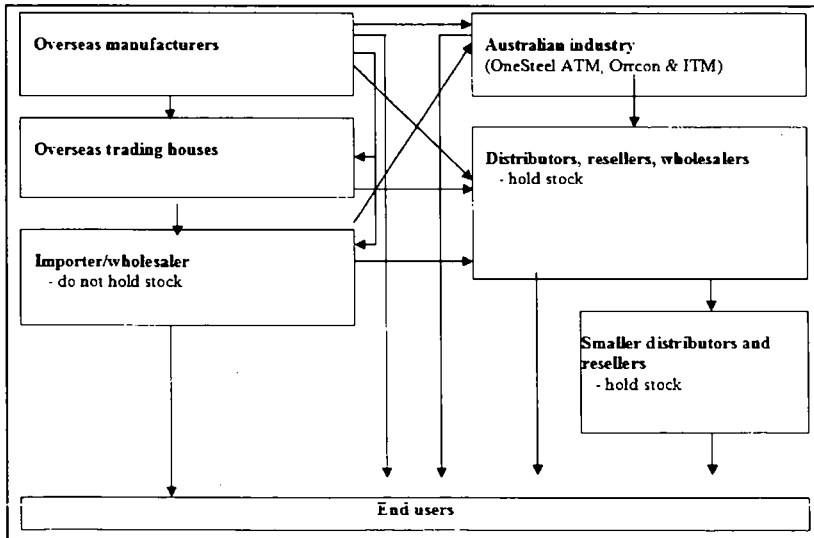
Croft observed that the volatility of the Australian HSS market is demonstrated by the insolvency of a major steel distributor in 2010, 7Steel.

Croft believed that the overall HSS market in Australia has shrunk over the injury analysis period. However, Croft considers there have been no major shifts in market share (imports vs industry) during that period.

Croft asserted that the Australian industry and particularly ATM (through One Steel Distribution) was still the price leader in the market.

5.2 Distribution and selling system

We provided Croft the below diagram that was included by ATM within its application to outline the market distribution channels.



Croft commented that ATM supplies predominantly to non-arms length vertically integrated OneSteel Distribution and BlueScope Distribution entities. In addition

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ATM will supply a limited number of select large independent steel distributors, these distributors then on-sell HSS to smaller distributors and resellers.

However, Croft noted that ATM does not directly supply the majority of independent distributors, and that these distributors (some of which are customers of Croft) can only purchase ATM product at a retail level through those distributors who are able to access supply from ATM. Croft explained that purchasing HSS through this channel erodes the profit margins of these independent distributors, and hence they source imports as a result (as imports are at a comparable level to product directly sourced from ATM).

Croft considered that the point at which imports are compared to Australian industry's product for price comparisons should be at the distributor level, as this is the main competition point between imports and domestic HSS (as only non arms length integrated entities or select large independent distributors can access HSS from the Australian industry but then the market accesses imports and domestic HSS at the distributor level).

Croft observed that OneSteel Distribution and Bluescope Distribution are considered to be the price setters in the HSS market, who each buy HSS from ATM. Croft advised that what these distributors sell at usually governs the market.

5.3 Croft's sales

5.3.1 Ordering and sales process

Croft advised that its decision on where to source HSS at any one time is based on the offer price from the mill, lead time and reliability of supply.

Croft advised that its usual ordering and sales process for the goods is as follows:

- Croft sources regular offers from its overseas mills, which are generally valid for a period e.g. one week.
- Croft calculates its own offers based on these mill offers (by converting the mill offers to a landed FIS price including Croft's margin), and distributes regular offers to its Australian customers via email. These too are valid for a period e.g. one week (the length of the supplier's offer).

Croft provided example offers to its Australian customers, which form **Confidential Attachment 10**.

- Croft is contacted by its Australian customers to either place orders for the goods under the offer released by Croft, or seek to negotiate a different price.

Where a customer seeks to enter into price negotiations, Croft engages with its overseas suppliers to undertake price negotiations and re-engages with its Australian customer following these. Croft's customer may then decide to place an order at the negotiated price.

- Croft's Australian customers confirm their orders usually by email or fax, at which point the sales price is confirmed.

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- Croft places its order with its overseas suppliers (usually by email), at which point the supplier's price is confirmed.
- The suppliers manufacture and compile the shipment, and advise Croft of shipment dates and details.
- Depending on the terms of trade, Croft organises for the product to be landed, cleared and delivered to the customer.
- Croft's Australian customer pays Croft according to agreed credit terms.

As Croft's sales are offer and negotiation-based, it does not maintain price lists.

Croft advised that, in making its offers to customers, it will state the identity of the mill on the offer to the customer. Croft advised that customers are often cautious of new mills.

Croft advised that its customer will specify on the order which warehouse to deliver to (where the customer is a national or multi-branch distributor) which will dictate which port the goods should be shipped to.

Depending on the terms negotiated with the supplier, Croft may arrange the ocean freight, insurance and will arrange domestic freight.

Credit terms to Croft's customers range from between [REDACTED]

[REDACTED], with most customers receiving credit terms of around [REDACTED] [confidential – credit terms].

Croft's terms of trade with its suppliers are either free on board (FOB), cost insurance and freight (CIF) or free alongside ship (FAS).

5.3.2 Date of sale

During the verification visit, Croft emphasised that the price between it and its customers (as well as between Croft and its suppliers) is set at the date of order confirmation not at the date of invoice.

Croft stated that the lead time between order date and fulfilment date by supplier and ultimate fulfilment of the customer order is generally in the range of 2 to 6 months, resulting in a significant timeframe between costing of foreign currency costs and payments.

Croft requested that the order confirmation date be used by Customs and Border Protection as the date of sale. Croft considers that, in making price comparisons between its sales and sales by Australian industry members, comparison should be made between Croft's date of order and the Australian industry's invoice dates, as this more accurately reflects when the prices are established for each sale.

Consequently, following Customs and Border Protection's verification visit, Croft revised its detailed sales spreadsheet (Confidential Attachment 5) to include order date information, in addition to the invoice date.

We compared the invoice date to Croft's Australian customers with the order confirmation date between Croft and its mill (which we understand would be the same as or within a few days of the confirmation date between Croft and its customer) for the 12 selected transactions (see Section 6.3 for a discussion of our

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verification of the importer transaction form data). We observed an average delay between order and invoice of almost 5 months.

Further we compared the invoice date to Croft's Australian customers with the order confirmation date between for these sales within Croft's revised sales listing and noted an average delay of approximately 4 ½ months between order confirmation and invoicing.

We consider that further consideration of this issue is warranted by case management.

5.3.3 Sales verification

Accuracy – verification to source documents

As discussed at Section 2.4, croft provided:

- source documents for 12 selected shipments detailed within its importer transaction form, which included Croft's invoices to its Australian customers (within **Confidential Attachment 4**); and
- invoices and proof of payment (in the form of remittance advices and bank statement extracts) for ten sales selected by Customs and Border Protection from Croft's sales listing (**Confidential Attachment 5**).

We matched the invoice details (value, quantity, invoice date, delivery terms and credit terms) for the above to Croft's sales listing. We also observed that the remittance advices matched the invoices for the ten selected sales, and the provided bank statement extracts displayed the payment of these remittance advices to Croft's account.

We are therefore satisfied that invoice details recorded in Croft's sales listing are accurate, and that Croft's customer paid the invoiced amounts for these transactions.

Completeness and relevance – verification to Croft's accounts

We requested Croft provide us with documents to conduct an upwards reconciliation by adding other sales (non-HSS sales) to Croft's Part C sales listing submitted in the importer questionnaire response (confidential attachment 5), however Croft has been unable to provide documents that differentiate sales in this manner.

Croft was able to provide:

- A detailed sales listing (Profit and Loss Detail Report) for the period July 2010 to June 2011, showing details of all sales and credits (HSS and non-HSS sales) over the investigation period at **confidential attachment 14**; and
- Croft's Profit and Loss Statement for the period July 2010 to June 2011 (confidential attachment 7).

We sampled and matched ten sales invoice details from Croft's Part C to the detailed sales listing for the period July 2010 to June 2011. For all ten sampled HSS sales we matched customer details, invoice date and invoice amount.

We verified Crofts Profit and Loss Statement for 2011 (confidential attachment 7) to the detailed sales listing. We were not able to verify this to audit accounts, as Croft

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advised that its statutory financial accounts are not yet complete for the financial year ending 2011.

We found no evidence of any non-HSS sales within Croft's Part C. As discussed in Section 6.1, we were able to reconcile sales volume of HSS in Part C with total HSS imports with the commercial database.

Consequently we are satisfied that Croft's Part C sales listing is a complete and relevant record of Croft's HSS sales for the investigation period.

5.3.4 Profitability of sales

Croft calculated the total profit for each of the 12 selected shipments (total selling price minus total cost to import and sell) in the importer transaction form.

This displayed that [REDACTED] profitable. The range of profit for the selected transactions was calculated as between [REDACTED] [percentage]. The estimated the profitability of the sales to be between [REDACTED] [percentage].

We observed that [REDACTED] sourced from different suppliers and sold to different Australian customers.

We observed that over, the shipments were profitable, with an average profit of [REDACTED] [percent].

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6 IMPORTS

As mentioned in Section 2.4, Croft provided source documents to verify that data in its importer transaction form for the 12 selected shipments (Confidential Attachment 4).

These source documents included the relevant:

- supplier invoice and packing list;
- Bill of Lading;
- shipping invoice (where applicable);
- Croft invoice(s) to customers;
- invoices for domestic inland transportation;
- customs clearance and entry fee charges invoice;
- port charges invoice; and
- supplier payment details.

6.1 Volume of trade

Based on data from Customs and Border Protection's commercial database, Croft imported [REDACTED] tonnes of HSS during the investigation period.

The following table summarises the export volumes from all countries during the investigation period.

Country	Main supplier	Quantity (T)
China	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
Korea	[REDACTED]	[REDACTED]
Malaysia	[REDACTED]	[REDACTED]
Taiwan	[REDACTED]	[REDACTED]
TOTAL		[REDACTED]

We compared the quantity data within Croft's completed importer transaction form for the 12 selected transactions (itself compared to invoices – see Section 6.3) to the data from Customs and Border Protection's commercial database.

We noted one discrepancy between the quantity reported in the importer transaction form and that contained in the commercial database (for Shipment 11) however consider that it is minor and due to error when entering the goods. Within the importer transaction form the actual invoiced volume has been used.

We also compared the total quantity of Croft's sales reported in its detailed sales listing (Confidential Attachment 5). We observed a [REDACTED] variance between the amount

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sold within the sales listing and the amount imported as recorded within the commercial database. We consider this is likely due to timing differences.

We are therefore satisfied that total tonnes and customs value in the commercial database reasonably corresponds with the suppliers' invoices and is reasonably accurate.

However, we note that the data reported within the database does not provide sufficient detail for calculating HSS export prices by finish in any event, and to accurately calculate export prices, further information will be obtained from exporters during the course of the investigation.

6.2 Forward orders

Croft's Importer Questionnaire response indicated that there were [REDACTED] applicable forward orders.

Croft supplied the purchase orders in respect of forward orders. See **Confidential Attachment 11**.

6.3 Verification of imports

As discussed at Section 2.4, we obtained source documents for HSS exported to Australia for the 12 sampled shipments (Confidential Attachment 4).

6.3.1 Supplier invoice details

We matched the invoice prices, volume and supplier details for each of the selected shipments on the importer transaction form to the supplier invoices (except for the volume of Shipment 11, as discussed in Section 6.1).

We confirmed that shipments were invoiced at either FOB, CIF or FAS.

We confirmed that the listed credit terms were correct, excluding one entry that was entered incorrectly, which we adjusted within the importer transaction form.

Invoices were in [REDACTED] [dollars]. Within the importer transaction form, Croft converted invoice prices (and other costs) to \$AU using the www.oanda.com exchange rate at the order confirmation date.

We observe that the \$AU calculations in Customs and Border Protection's commercial database are converted using the exchange rate on the date of the customs entry.

6.3.2 Shipment costs

Under the heading of 'Shipment Costs' in the importer transaction form, Croft entered amounts for overseas freight (except for the CIF shipments) and marine insurance (which was included for the CIF shipments incorrectly and thus removed).

Croft explained that the rate for marine insurance was calculated by applying the insurance premium rate of [REDACTED]%, based on estimated sendings for the period 11 March 2010 to 11 March 2011, by monthly sales invoice value. Estimated sendings and annual declarations for final premium assessment are based on Cost and Freight plus Duty plus 10% which would equate to approximately sales invoice

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value. Croft supplied a copy of its marine insurance policy (**Confidential Attachment 12**) which displayed the method of calculating the insurance amount. We observed this reconciled to the importer transaction form.

Item	Average cost \$AU/T
Ocean freight	██████
Marine insurance	██████
Total	██████

6.3.3 Importation costs

Under the heading of 'Australian Importation Costs' in the importer transaction form, Croft entered amounts for customs duty and entry fees, customs broker's fees, port service charges, bank and interest charges, delivery charges, handling costs, storage, and commission paid by Croft to overseas agents (who do not act as traders but rather assist Croft in the export transaction and have no ownership interest in the goods at any stage).

We consider that bank and interest charges in fact relate to Croft's selling costs rather than importation costs, and re-located them under this cost category in the importer transaction form (discussed below).

We compared the amounts provided with the provided customs broker and other relevant invoices to the importer transaction form. Some minor discrepancies were found and the data reported in the importer transaction form was adjusted accordingly.

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

Item	Average cost \$AU/T
Customs duty, entry fees	██████
Port charges	██████
Delivery	██████
Commission	██████
Storage and handling	██████
Total	██████

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

We noted on the importer transaction form that Croft calculated selling, general and administration (SG&A) costs for each of the selected shipments based on an SG&A estimate of ██████% of sales revenue.

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Croft explained that the SG&A rate was calculated by dividing total direct expenses (total expenses less foreign exchange gain losses, interest and bank fees) by total revenue as shown in the Profit and Loss Statement (confidential attachment 7). We verified this figure within Croft's 2011 Profit and Loss Statement.

We examined the 2011 Profit and Loss statement and found that no amounts included in the company's SG&A calculations had already been included in post importation expenses in Crofts Importer Transaction Form.

Croft included a further credit insurance charge in the importer transaction form under the SG&A expenses, Customs and Border Protection noted that this charge was not included in the total importation cost calculation. Croft advised this was an error, and Customs and Border Protection has amended the importer transaction form accordingly. Croft provided a copy of its credit insurance policy which is at **confidential attachment 15**. We observed the premium rate within the insurance policy was used to calculate the amount of credit insurance by multiplying it by the invoice amount (as per the policy instructions).

Croft further included calculations for bank and interest charges within the importer transaction form under importation costs. Croft explained how it calculated a bank charge fee of [REDACTED] and an interest charge of [REDACTED] by dividing total bank charge fees and interest charges respectively by total revenue as shown in 2011 Profit and Loss Statement (confidential attachment 7). We consider bank and interest charges to be more accurately categorised as selling expenses and have included these within the SG&A calculations in the importer transaction form.

Using the verified data in the importer transaction form, weighted average SG&A costs, (inclusive credit insurance charge, bank charge fee and interest charge) in \$AU/Tonne were calculated as \$ [REDACTED].

6.5 Export prices for selected shipments

Based on verification of 12 of the selected shipments, we calculated weighted average FOB export price (in AUD) for the goods over the investigation period.

To arrive at FOB export prices for those shipments that were CIF, we deducted weighted average insurance and freight rates for the remaining shipments from the CIF invoiced price.

FAS shipments were considered to be at FOB terms (comparable terms).

These calculations are summarised in the below table.

HSS Type	Total
Bik Pipe	[REDACTED]
Gal Pipe (HDG)	[REDACTED]
Pre Gal Rhs	[REDACTED]
Ptd Rhs	[REDACTED]
Total weighted average export price	[REDACTED]

PUBLIC RECORD

7 WHO IS THE IMPORTER AND EXPORTER

7.1 Who is the importer?

We have reviewed the documents provided by Croft in respect of the selected shipments. We note that Croft:

- negotiates directly with the suppliers;
- is named as the consignee on the bill of lading;
- is named as the buyer on supplier invoices;
- arranges and pays for ocean freight and marine insurance (for non-CIF transactions);
- has an insurable interest in the goods while they are on the water (for non-CIF transactions);
- arranges Customs clearance, logistics and storage of the goods after they delivered to the Australian port;
- retains ownership of the goods until they are delivered to its customers; and
- bears the risk of its customers defaulting on purchase agreements with Croft.

We consider Croft to be the beneficial owner of the goods at the time of importation, and therefore the importer.

7.2 Who is the exporter?

Customs and Border Protection 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.

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

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

Therefore, depending on the facts, Customs and Border Protection 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.

PUBLIC RECORD

Subject to further inquiries, we are satisfied that [REDACTED] [REDACTED] [suppliers] can be considered exporters of HSS imported by Croft. To our knowledge, these entities are principles in the country of export, who manufacture the goods and give up the goods for shipment directly to Croft.

To our knowledge, Croft's other suppliers ([REDACTED] [REDACTED]) are traders of HSS. We have insufficient information to identify the exporter for its shipments.

Further enquiries with these entities should be undertaken to ascertain the exporter of goods supplied through these traders.

PUBLIC RECORD**8 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.

Croft stated that it [REDACTED]

[REDACTED]
[REDACTED] [confidential – payment terms]

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

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

We are satisfied that import transactions between Croft and its suppliers are at arms length in terms of s. 269TAA.

PUBLIC RECORD

9 GENERAL COMMENTS

Croft made a number of claims asserting that any injury being suffered by the Australian industry is being caused by the business practices of the applicant, reduction in demand for HSS and prevailing market conditions and not imports

Croft claimed that the business practices of ATM in particular limiting sales to certain distributors were detrimental to the profitability of the applicant.

Croft noted that OneSteel Limited's (ATM's parent company) 2011 annual report stated that poor results from the Manufacturing sector of their business was a result of the GFC, reduced demand and a high Australian dollar, there were no claims that dumped imports were causing injury. Croft further noted that overall the OneSteel group made a profit, and questioned whether transfer pricing issues for raw materials were distorting the profitability of Manufacturing within the business group.

Croft asserted that ATM was inefficient in its production of HSS. Croft claimed that overseas producers had improved business practices, for example, by reducing the down time between HRC roll changes.

Croft claimed that ATM's decision to import certain HSS has reduced their volumes, and reduced profits because of the diminishing economy of scale.

Croft claimed there was no logical business case for exporters to dump HSS in the Australian market, this is because the Australian standards require production of a unique HSS product not sold domestically or elsewhere, therefore production volumes for Australia are only made to customers orders.

Croft spoke of the nature of competition between itself and the Australian industry.. Croft observed that the main competitive advantage held by the Australian industry is its shorter lead times due to ex-stock supply options (this ex-supply supply attracts additional cost).

During the verification meetings, Croft also explained that there have been recent changes to the Australian Standard AS1163 (from 2009). These changes have added little practical improvement to products manufactured to comply with it, but rather have 'tweaked' the standards in such a way as to make it less attractive for overseas suppliers of HSS to meet the standard for only the Australian market. Croft observed that ATM was involved in the revising of this standard.

Croft provided copies of the current Australian standard and former standard, which form **Confidential Attachment 13**.

Croft stated that the Japanese HRC prices used by ATM within its application to construct normal values compared Chinese HRC prices were not reflective of a competitive market price. Croft suggested that Bluescope Steel's exports of HRC from Australia or benchmark of a basket of Asian HRC export prices, may be more reflective of a competitive market price (Croft noted that it considered these to be similarly to prices seen in China).

Croft identified that the Pricing and Availability Guide submitted by A I M in its application has been superseded by more recent versions – the most recent of which is available on ATM's website.

PUBLIC RECORD

10 RECOMMENDATIONS

[REDACTED]

From our investigations with Croft, we are of the opinion that, for the goods imported by Croft directly from [REDACTED]:

- the goods have been exported to Australia otherwise than by the importer, Croft;
- the goods have been purchased by the importer from the exporters; and
- the purchases of the goods by the importer were arms length transactions.

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

[REDACTED]

We are of the opinion that, for the goods imported by Croft from [REDACTED]

[REDACTED], the goods have been exported to Australia otherwise than by the importer, Croft. However, we do not have sufficient information to determine whether the goods have been purchased from the exporter.

Subject to further inquiries in relation to these shipments, we recommend that the export price for HSS imported by Croft from [REDACTED]

[REDACTED] can be established under s.269TAB(1)(c) or s.269 TAB(3) of the Customs Act 1901.

PUBLIC RECORD

11 ATTACHMENTS

Confidential Attachment 1	Croft's response to the Importer Questionnaire (Part A)
Confidential Attachment 2	Visit agenda
Confidential Attachment 3	Importer transaction form
Confidential Attachment 4	Source documents for 12 selected shipments
Confidential Attachment 5	Part C detailed sales listing
Confidential Attachment 6	Source documents for ten selected sales
Confidential Attachment 7	FY 2011 P&L statement
Confidential Attachment 8	HSS pre-costing sheet
Confidential Attachment 9	Foreign exchange ledger
Confidential Attachment 10	Customer offers
Confidential Attachment 11	Forward order purchase order
Confidential Attachment 12	Marine insurance policy
Confidential Attachment 13	Current and former AS1163
Confidential Attachment 14	Profit and loss detail report
Confidential Attachment 15	Trade credit insurance policy