



**Australian Government**  
**Australian Customs and**  
**Border Protection Service**

---

# **INVESTIGATIONS INTO THE ALLEGED DUMPING HOT ROLLED PLATE STEEL**

**EXPORTED FROM**

**THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF  
INDONESIA, JAPAN,**

**THE REPUBLIC OF KOREA AND TAWAIN**

**IMPORTER VISIT REPORT**

**CMC AUSTRALIA 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**

**March 2013**

## PUBLIC FILE

# 1 TABLE OF CONTENTS

1	TABLE OF CONTENTS.....	2
2	BACKGROUND AND PURPOSE .....	3
2.1	The application .....	3
2.2	Previous anti-dumping investigations .....	3
2.3	Background to meeting .....	4
2.4	Purpose of meeting .....	4
2.5	Visit.....	5
3	THE GOODS .....	7
3.1	The goods the subject of the applications.....	7
3.2	'Like' goods .....	8
4	COMPANY BACKGROUND .....	9
4.1	Company background .....	9
4.2	Accounting.....	9
4.3	Relationship with suppliers .....	9
4.4	Relationships with customers.....	10
5	IMPORTS.....	11
5.1	Introduction.....	11
5.2	Ordering process and price .....	12
5.3	Terms .....	12
5.4	Verification.....	13
5.5	Export prices for shipments.....	14
5.6	Forward Orders .....	15
5.7	Who is the importer .....	15
5.8	Who is the exporter? .....	16
6	AUSTRALIAN MARKET AND SALES .....	18
6.1	General.....	18
6.2	Market Share.....	18
6.3	Australian sales .....	18
6.4	Price and distribution arrangements .....	19
6.5	Rebates and discounts.....	19
6.6	Sales verification (accuracy) .....	19
6.7	Proof of Payment.....	20
6.8	Upwards verification (completeness) .....	20
6.9	Selling, general and administrative expenses (SG&A).....	20
6.10	Profitability of sales and selling price .....	21
7	ARMS LENGTH .....	22
8	DUMPING, MATERIAL INJURY AND CAUSATION .....	24
8.1	General.....	24
9	UNSUPPRESSED SELLING PRICE .....	25
10	RECOMMENDATIONS.....	26
11	ATTACHMENTS.....	27

## 2 BACKGROUND AND PURPOSE

### 2.1 The application

On 21 December 2012, an application was lodged on behalf of BlueScope Steel Limited (BlueScope) requesting that the Minister for Home Affairs (the Minister) publish:

- a dumping duty notice on hot rolled plate steel exported to Australia from the People's Republic of China (China), the Republic of Indonesia (Indonesia), Japan, The Republic of Korea (Korea) and Taiwan; and
- a countervailing duty notice on hot rolled plate steel exported to Australia from China.

BlueScope alleges that the Australian industry has suffered material injury caused by hot rolled plate steel exported to Australia from the nominated countries at dumped and, in the case of China, subsidised prices.

BlueScope provided further information and data in support of its application, the last of which was received on 29 January 2013. As a result, Customs and Border Protection restarted the 20 day period for considering the application.

On 12 February 2013, following consideration of the applications, the Chief Executive Officer of Customs and Border Protection decided not to reject the applications and initiated investigations into the alleged dumping of hot rolled plate steel from China, Indonesia, Japan, Korea and Taiwan. Public notifications of initiation of the investigations were published in *The Australian* on 12 February 2013. Australian Customs Dumping Notice (ACDN) No. 2013/18 and ACDN No. 2013/20 provides further details of the investigations and is available at [www.customs.gov.au](http://www.customs.gov.au).

### 2.2 Previous anti-dumping investigations

On 25 March 2004, the Minister for Justice and Customs published a dumping duty notice under s. 269TG(2) of the Act, imposing dumping measures on certain plate steel exported to Australia from China, Indonesia, Japan and Korea with the exclusion of one Korean exporter and two Indonesian exporters. The measures took effect on 2 April 2004.

Following a review by the Trade Measures Review Officer (TMRO), the Minister requested the Chief Executive Officer (CEO) of Customs and Border Protection to reinvestigate the findings in original report No. 76.

Following the reinvestigation, on 7 December 2004, the Minister for Justice and Customs accepted Customs and Border Protection's recommendations in report No. 87 to affirm the publication of dumping duty notices. Public notice was provided on 24 December 2004.

The measures expired on 2 April 2009.

## PUBLIC FILE

There are currently no anti-dumping or countervailing measures on plate steel exported to Australia.

### 2.3 Background to meeting

Following the initiation of the investigations, a search of Customs and Border Protection's import database indicated that CMC Australia Pty Ltd (hereafter referred to as CMC) imported goods under investigation from China, Indonesia, Japan, Korea and Taiwan during 1 January 2012 and 31 December 2012 (the investigation period). Customs and Border Protection also confirmed from Customs and Border Protection's database that CMC was a major<sup>1</sup> importer of hot rolled plate steel.

Customs and Border Protection notified CMC of the initiation of the investigation and sought their cooperation with the investigation and provided an importer questionnaire in respect of hot rolled plate steel to the company to complete. CMC was also provided with a list of its imports of hot rolled plate steel during the investigation period, extracted from Customs and Border Protection's import database, with selected consignments for further verification to source documentation.

CMC completed the importer questionnaire, providing details regarding the company, overseas supplier information, imports and importation and selling expenses. A copy of Part A (company and supplier details) of the CMC importer questionnaire response is at **Confidential Attachment GEN 1**.

### 2.4 Purpose of meeting

The purpose of this visit was to:

- confirm that CMC was a major importer of hot rolled plate steel and obtain information to assist in establishing the identities of the exporters of the goods;
- verify information on imports of hot rolled plate steel to assist in the determination of export prices from China, Indonesia, Japan, Korea, and Taiwan;
- establish whether the export purchases were arms-length transactions;
- establish post exportation costs incurred in importing;
- identify CMC's sales and customers and determine sales volume, selling prices and costs;
- recommend how export price may be determined under section 269TAB of the *Customs Act 1901*<sup>2</sup>; and
- provide CMC with an opportunity to discuss any issues relevant to the investigations.

---

<sup>1</sup> For the purpose of this report, a major importer is defined as an importer that imported more than 5% of the total volume of imports from the countries subject to the investigations.

<sup>2</sup> Herein all references to legislation in this report refer to the *Customs Act 1901*, unless otherwise specified

## PUBLIC FILE

Prior to the meeting Customs and Border Protection forwarded an agenda to CMC and advised that we would require supporting documentation for the selected consignments that had been previously identified. A copy of the visit agenda is at **Confidential Attachment GEN 2**.

### 2.5 Visit

Details of the visit were as follows:

<b>Company:</b>	CMC Australia Pty Ltd
Address:	Level 6, 697 Burke Road, Camberwell VIC 3124
Telephone no:	(03) 9805 0400
Fax no:	(03) 9805 0455
Visit date:	Tuesday 19 March 2013
<b>Present at the visit</b>	
CMC Australia Pty Ltd	Mr Mark Drury, Marketing Manager Mr David Last, Manager Plate & Coil Products Mr Martin Hoad, Commercial Manager Mr Merton Howard, Consultant
Customs and Border Protection	Mr Tom O'Connor, Manager Operations 1 Mr Tim Flor Supervisor Operations 2

At the meeting and due to the number of recent Customs and Border Protection anti-dumping verification visits undertaken CMC decided an introduction and overview of the investigation was not necessary. For the record however the following summary would have been provided and follows;

- The investigation period is 1 January 2012 to 31 December 2012;
- Customs and Border Protection will examine the Australian market from 1 January 2008 for the purpose of analysing the condition of the Australian industry;
- initial submissions from interested parties are due by 25 March 2013 (in response to the applications and initiation notice);
- a preliminary affirmative determination (PADs) may be made no earlier than 13 April 2013 (after day 60 from the date of initiations);
- provisional measures may be imposed at the time of the PADs or at any time after the PADs have been made, but Customs and Border Protection would not make such a determination until it was satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of dumping duty notices;
- a statement of essential facts (SEF) will be placed on the public record by 3 June 2013 or such later date as the Minister allows;
- this SEF will set out the material findings of fact on which Customs and Border Protection intends to base its recommendations to the Minister and

## PUBLIC FILE

will invite interested parties to respond, within 20 days, to the issues raised therein (submissions received in response to the SEF will be considered when compiling the report and recommendations to the Minister);

- Customs and Border Protection's report to the Minister is due by 17 July 2013, unless an extension to the SEF is approved by the Minister;
- the Minister will have 30 days from the date of receipt of the final report to make a final decision;
- certain interested parties have the right to seek a review to the Trade Measures Review Officer in relation to the Minister's decision;
- Non confidential submissions and visit reports are placed on the public file and the electronic public file accessible via Customs and Border Protection's website;
- CMC would be given an opportunity to review the visit report for accuracy; and an 'For Official Use Only'<sup>3</sup> report on the visit will be prepared; and
- a public record version of this visit report would then be prepared in consultation with CMC and placed on the Public Record for the investigation.

The verification team also drew CMC's attention to the ACDN 2012/34 that describes the operation of goods in transit and the operation of securities.

Customs and Border Protection recently visited CMC for the concurrent investigation into the alleged dumping and subsidisation of aluminium zinc coated steel and zinc coated steel. In that investigation and for this, CMC was co-operative and had the required documentation available for the meeting.

The case number for viewing relevant public documents on the electronic public record is case number 198.

---

<sup>3</sup> Which replaces the previously used security classification of "*Confidential*".

### 3 THE GOODS

#### 3.1 The goods the subject of the applications

##### 3.1.1 Description

The goods the subject of the application are flat rolled products of:

- iron;
- non-alloy steel; or
- non-heat treated alloy steel of a kind commonly referred to as Quench and Tempered (Q&T) Green Feed;

of a width greater than 600mm, with a thickness equal to or greater than 4.75mm, not further worked than hot rolled, not in coils, with or without patterns in relief.

Goods excluded from the investigation are:

- 250 megapascal (MPa) yield strength grades of plate steel with a thickness greater than 150mm;
- 350 MPa yield strength grades of plate steel with a thickness greater than 100mm;
- Q & T Green Feed grades of plate steel with a thickness greater than 105mm; and
- heat treated Q & T grades of plate steel.

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

- 7208.40.00 statistical code 39;
- 7208.51.00 statistical code 40;
- 7208.52.00 statistical code 41;
- 7225.40.00 statistical codes 22 and 24.

For tariff subheadings 7208.40.00, 7208.51.00 and 7208.52.00 the general rate of duty is 5 percent for goods imported from Japan and free for imports from China, Indonesia, Korea and Taiwan.

For goods imported under the tariff subheading 7225.40.00 the general rate of duty for goods imported from Japan, Korea and Taiwan is 5 percent and 4 percent for imports from China and Indonesia.

## PUBLIC FILE

### 3.1.2 Abrasive resistance

CMC indicated that an anomalous situation has occurred with the description of like goods. In the industry, many clients will seek to purchase quench and tempered goods and call the goods such, however the goods are known as abrasive resistance and invoiced this way. To achieve abrasive resistance the plate steel needs to be heat treated and consequently in CMC's view it is further worked. As it is further worked CMC considers the goods fall to tariff classification 7225.99.00 and out of scope.

From a price point of view, abrasive resistant plate is approximately USD500 more than the goods. CMC provided evidence of this pricing see **confidential attachment IMP 1**.

### 3.1.3 Boiler plate

CMC indicated that boiler plate whilst being sheet steel, it is of a strength that puts it out of scope. It is neither 250MPa nor 350MPa yield strength and has more chromium.

## 3.2 'Like' goods

CMC advised that hot rolled plate steel is made from either a slab in a rolling mill or cut from coil. Flat products cut from coil are called sheets and those from slabs are called plates.

Although the distinction, CMC considers that the end product can be applied for the same end use and are interchangeable. Typically flat products from coil will tend to have narrower thickness specifications than those from slabs.

Consequently, CMC's products are sourced from mills that use either slab and or coil or both.

CMC indicated that the Australian industry makes like goods which fits the description of the goods description.



## 4 COMPANY BACKGROUND

### 4.1 Company background

CMC was established in 1980 as an importer and marketer of long and flat steel products for the domestic market. CMC is a subsidiary of US based Commercial Metals Company (CMC) Ltd, which is publicly listed on the New York stock exchange. The CMC Group operates offices in North America, Europe, Asia and Australasia and one representative office in Moscow. Sales in Australia and New Zealand reportedly accounted for approximately [REDACTED] % of turnover for the Group for financial year 2012. CMC operates [REDACTED] across Australia: [REDACTED] (CMC business divisions).

#### 4.1.1 General background

CMC is the [REDACTED] steel in Australia and sells product to its customers through offices in Melbourne, Sydney, Perth, Brisbane and Adelaide. In addition, smaller regional sales outlets operate in a number of locations including Darwin, Townsville and Toowoomba. The company primarily sells to manufacturers in the steel, non-ferrous metals, metal fabrication, chemical, refractory, construction and transportation businesses.

CMC uses warehouse facilities at several Australian ports for distribution purposes for just in time delivery and logistics management. CMC's related company, CMC Coil Steels Pty Ltd (CMC Coil Steels), formerly known as Coil Steels Group Pty Ltd, is a major distributor and processor of steel sheet, coil and long products. CMC Coil Steels is the [REDACTED] distributor of coil in Australia. CMC competes in the market on price, quality and reliability of the products, financing alternatives and additional services.

The reason for CMC's existence is to provide smaller players in the Australian market alternative supply of these products. CMC bundles the smaller orders into larger orders that are acceptable quantities for the mills.

### 4.2 Accounting

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

### 4.3 Relationship with suppliers

During the investigation period, CMC used the following suppliers [REDACTED]. The other suppliers [REDACTED]. CMC indicated it had no relationship with its suppliers other than a commercial relationship of buyer and seller. Furthermore, CMC indicated that its parent had no ownership or other controlling relationship with these suppliers.

CMC also explained that it does not receive any rebates or discounts from its suppliers.

Via part A and C of the importer questionnaire, we were able to identify CMC's customers. Although a large customer, [REDACTED] – acting as a distributor of the goods in competition to its other customers.

However, we were advised that [REDACTED] and [REDACTED] (customer's business operations). As such, all sales are made for profit and are considered arms' length transactions. Despite these claims we compared the weighted average selling prices of CMC's large customers to those of [REDACTED] and found the selling prices to [REDACTED] were higher than other comparable customers.

CMC also provided a copy of their audited financial statements for 2012. See **confidential attachment SGA1**. On examination of the notes to the financial statements we identified that [REDACTED] (Customer) and [REDACTED] was in the [REDACTED].

Again we examined the prices paid by  
[REDACTED]  
(Customers price comparison).

## PUBLIC FILE

## 5 IMPORTS

### 5.1 Introduction

Customs and Border Protection's import database indicated that CMC imported hot rolled plate steel [REDACTED] suppliers seen below in the table. Customs Commercial data base indicates CMC import volumes over the investigation period totalling [REDACTED] mt. CMC questioned this volume citing the issues with the abrasive resistant plate and smaller anomalies which should reduce the annual quantity. CMC considers the annual quantity to be closer to [REDACTED] mt. The main difference is the volume imported from [REDACTED], as this quantity is mainly abrasive resistant plate.

The quantity imported by supplier is summarised in the following table.

Principal Original Country	Supplier Full Name	USD	Qty Mt
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

We were informed that the main reason [REDACTED] suppliers is due to the portfolio of goods CMC supplies to the Australian market.

[REDACTED]  
(Suppliers and products). CMC indicated that in order to meet the minimum order requirements it does from time to time need to place orders on these suppliers with other goods.

For hot rolled plate steel, the main suppliers, year in year out, are [REDACTED] (Major supplier)

## PUBLIC FILE

## 5.2 Ordering process and price

CMC conducts price negotiations approximately once a month with the mills (price negotiation process). During this window, CMC needs to make firm orders to meet the mills production schedule.

The price for hot rolled plate steel is set on by a base price. Apart from a few integrated mills, most need to purchase the raw inputs either slab or coil. Since these prices are reasonably well published, the price offer from the supplier is based on a cost plus so CMC have a reasonably good understanding of the likely base price from publicly available published information. To this price are extras. Extras vary in description and value, but are mainly for, thickness, width, length and grade. Below is a table from some supplier and the extras charges and conditions.

Supplier	Base	Grade	Thickness	Other
██████████	██████████	██████████	██████████	██████████
██████████	██████████	██████████	██████████	██████████
██████████	██████████			
██████████	██████████			██████████

██████████, CMC contacts its customers to obtain orders. Apart from a very small percentage, ██████████ all orders with its suppliers are made on a back to back arrangement with CMC's customers. For orders not supported by a customer order, CMC indicated; this is due to it being forced to make a minimum mill quantity. With this volume CMC undertakes to have the goods sold prior to the time they arrive in Australia. Once the order is confirmed with its customer CMC places the order on the supplier ██████████ (payment arrangements).

CMC advised us that no order will be made with the supplier ██████████ (purchase considerations).

From order to arrival in Australia is between ██████████ months.

## 5.3 Terms

The vast majority of orders are sold on ██████████ terms. We noticed a small number of orders on ██████████ terms as well. Payment with all suppliers ██████████.

## PUBLIC FILE

[REDACTED] (payment terms).

### 5.4 Verification

Prior to the visit, we selected 12 shipments and asked CMC to provide Customs and Border Protection the following source documents:

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

The source documents are at **confidential attachment IMP 1**.

For each shipment we used the source documents provided to check the listed quantity, invoice value, ocean freight and insurance, exchange rate, customs duty, importation costs, expenses and average selling prices in the import sales spreadsheet.

Following the visit we verified all twelve sets of documents for proof of payment of the shipment and post exportation costs. These documents are at **confidential attachment IMP1**. We were able to reconcile the shipment number, quantity, value, price and delivery terms for the selected shipments with the data in the import list.

#### 5.4.1 Bank Charges

CMC identified its bank charges in the sales route exercise which relate to the costs associated with [REDACTED].

CMC provided a schedule with all bank charges for all shipments with each charge being identified via the [REDACTED]. We were informed that [REDACTED] shipments and henceforth the respective charge needed to be apportioned over the number of shipments [REDACTED]. CMC provided another schedule to demonstrate the number of shipments [REDACTED] (verification of bank changes). See **confidential attachment IMP 2**.

#### 5.4.2 Credit Insurance

CMC takes out credit insurance for most of its domestic sales to cover the event of non-payment. As part of the documentation and the sales route exercise CMC had separately identified this expense. At **confidential attachment IMP 3** are copies of the up-dated credit insurance premiums that covered the investigation period.

## PUBLIC FILE

### 5.4.3 Importation costs

We calculated the average post free on board expenses for the selected shipments, which are summarised in the following table (expressed in Australian dollars per tonne).

	Weighted average cost per unit (tonne)
Ocean freight	████
Insurance	████
Australian importation costs (excluding GST)	████
Selling, general and administrative expenses (based on average selling price)	████

### 5.5 Export prices for shipments

Based on the Customs and Border Protection import database, we calculated the weighted average FOB export price (in USD) for hot rolled plate steel over the investigation period.

Goods Description	Principal Original Country	Supplier Full Name	USD Mt FOB
████	████	████	████
	████	████	████
	████	████	████
		████	████
	████	████	████
		████	████
	████	████	████
████	████	████	████

## PUBLIC FILE


We asked CMC to explain why (supplier). CMC informed us that they have been using (supplier relationship). However plate steel is not their main business and most of CMC's purchases is for this other product. The small quantity reflects that from time to time CMC needs to make up the mills minimal order quantity. hot rolled plate steel in sheet sizes of .

## 5.6 Forward Orders

Via the importer questionnaire, CMC indicated the volume and value of forward orders. It however defined forward orders as either on water (in transit) or unshipped (not yet manufactured). Respectively the volumes are mt and mt.

Supplier	Sum of FO On Water MT	Sum of FO UnShipped MT

## 5.7 Who is the importer

We noted that CMC:

- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading; and
- pays for delivery of the goods to the customer.

## PUBLIC FILE

We consider CMC was the beneficial owner of the goods at the time of importation and is therefore the importer.

### 5.8 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.

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

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

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

Therefore, depending on the facts, 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.

In \_\_\_\_\_ relation \_\_\_\_\_ to \_\_\_\_\_ exports \_\_\_\_\_ from \_\_\_\_\_  
 \_\_\_\_\_, upon review of the documentation provided we are satisfied that:

- the commercial invoices identify the supplier;
- the bills of lading identify the supplier as the shipper of the goods; and
- the supplier arranges and pays for the goods to be transported to the wharf and loaded onto the ship in the country of export; and
- CMC pays the relevant supplier.

Subject to further enquiries we are satisfied that these entities can be considered exporters of the goods imported by CMC.



**PUBLIC FILE****5.8.1 Un-verified exporters**

Subject to further enquiries with the following entities, CMC indicated that [REDACTED] Company are mills or coil service centres whereby CMC trades directly with them. It is reasonable to consider they would be exporters.

Additionally, we were informed that [REDACTED]

(supplier names).

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

**5.8.2 Trading houses**

Based on the information available we consider that the following entities listed as suppliers in the import database are likely to be trading houses and are therefore unlikely to be considered the exporter:

[REDACTED]  
Further enquiries should be undertaken to confirm all the circumstances of exportation and determine the exporter identity of the goods supplied via these entities.

## PUBLIC FILE

## 6 AUSTRALIAN MARKET AND SALES

### 6.1 General

CMC had sales of approximately \$ [REDACTED] (sales value) during the investigation period. This is an annualised figure based on ten months of sales figures from the [REDACTED] (accounting system).

During the verification visit it became apparent that the sales information supplied with the importer questionnaire was [REDACTED] due to the inclusion of goods out of scope.

CMC undertook to provide a refined version.

We were advised that hot rolled plate steel is a product that has many uses and goes into many industries. It is used in truck chassis, mining and civil engineering industries for example.

We were informed that it is a competitive industry, but one of the main impediments to volume growth has been the increasing presence of imported prefabricated products. CMC indicated this activity has been prevalent in mining industry applications.

CMC indicated that some of their customers have begun to source prefabricated products and import them in a knocked down manner as opposed to importing the hot rolled plate steel and fabricate in Australia.

Whilst no exact figures were to hand, CMC indicated that prefabricated imported hot rolled plate steel would, if it had been imported in the typical manner and fabricated in Australia, account for approximately 25% of the market or looking at it another way the market as a whole would have a volume 25% higher.

### 6.2 Market Share

CMC indicated its market share for hot rolled steel plate to be approximately [REDACTED]%. This has been calculated from an examination of import statistics, knowledge of the Australian industry's production output and the volume of its own sales. CMC indicated the Australian market to be in vicinity of 300,000 tonnes per annum.

### 6.3 Australian sales

CMC identified its customers into four categories, [REDACTED]. Of the [REDACTED] categories, of the top [REDACTED]% of total sales that occurred during the [REDACTED] months of the investigation period, [REDACTED]% were sold [REDACTED], followed by [REDACTED].

Within the customer list, although not featured in the top [REDACTED]%, [REDACTED] also purchased the goods from CMC.

## PUBLIC FILE

An examination of the weighted average selling prices indicated that [REDACTED] although the price differences [REDACTED] (level of trade price comparisons).

### 6.4 Price and distribution arrangements

All sales are made on an [REDACTED] basis. Price setting however is significantly more complex.

Before agreeing to place an order with its suppliers, CMC undertakes [REDACTED] (ordering procedures).

Sales that are deemed [REDACTED].

All sales to their customers are in [REDACTED] terms. All sales sold [REDACTED] (sales with credit terms) offered to CMC customers.

CMC's customers are aware that [REDACTED] affects the selling price and this is a factor [REDACTED] pay for if [REDACTED] seeks such cash flow management strategies.

### 6.5 Rebates and discounts

CMC stated that it does not offer rebates, settlement discounts or volume percentage discounts to their customers and that the invoiced price is the price paid.

### 6.6 Sales verification (accuracy)

CMC provided us with a line by line sales list of its sales of steel products for the period from 1 January 2012 to 31 December 2012.

At the visit CMC provided copies of commercial invoices for sales related to the 12 shipments selected from their total imports. Copies of these documents are at **confidential attachment IMP 1**. However shipments 3, 6 and 7 related to abrasive resistant plate steel. We were informed these goods are heat treated and fall outside the scope of the investigation. CMC provided copies of the commercial invoices which provided a description of the goods and the prices paid. See **confidential attachment IMP 4**. The commercial documents provided for the remaining invoice numbers, quantity, amount and customer's names reconciled with the information in the sales list. Apart from the three identified shipments the remainder were the goods under investigation.

We were also able to reconcile these selected shipments and respective sales to the sales spreadsheet at Part C of the importer questionnaire.

## PUBLIC FILE

**6.7 Proof of Payment**

We received proof of payment for the goods for the invoices examined. We were provided with evidence of payment for all transactions that confirm that CMC has been paid the invoiced amounts, except for shipments whereby the payment terms [REDACTED] (payments arrangements). See **confidential attachment IMP 1**.

**6.8 Upwards verification (completeness)**

We were provided with CMC's audited financial statements for the year ended 31 August 2012 (**confidential attachment SALES 1**). CMC also provided its monthly income statement for its Plate department for the period January 2012 to October 2012 showing the quantity and value of all steel plate sales (**confidential attachment SALES 2**). [REDACTED]  
[REDACTED] (accounting system changes).

CMC provided a spreadsheet containing line by line transaction data for sales by the Plate department. We selected the month of May 2012 and June 2012 for examination. We were not able to reconcile sales values and quantities provided in Part C of importer questionnaire with Plate department income statement for May 2012 and June 2012. The Plate department income statement included goods under investigation and goods out of scope, hence, reflecting the difference in the quantities and sales values when trying to reconcile the sales data and the Plate department sales values. The company also explained that the difference could result from the accounting revenue recognition process with its parent company in the United States.

**6.9 Selling, general and administrative expenses (SG&A)**

CMC included in its cost to import and sell spreadsheet at Part B of its importer questionnaire response, with SG&A expenses up to August 2012 being [REDACTED]% and from September to October 2012 of [REDACTED]% of the selling revenue.

[REDACTED] (accounting system changes).  
[REDACTED] departmental reporting was calculated with Plate Steel being one such department. Consequently CMC provided this report to demonstrate the SG&A calculation. See **confidential attachment SGA 2**.

Following an examination of the audited financial statements (see **confidential attachment SGA1**) and the Plate Steel departmental report, we noted finance charges were not included in the departmental report. CMC advised us that from its perspective it does not consider finance charges to be part of the SG&A, but considered on a fully absorbed basis a rate of [REDACTED]% would apply.

**PUBLIC FILE**

We added the finance charge rate plus the SG&A rate of the Plate Steel department to determine profitability.

**6.10 Profitability of sales and selling price**

Using the above constructed SG&A rate, we found the sales [REDACTED] with a rate of [REDACTED] approximately [REDACTED]% on the selected shipments.

## PUBLIC FILE

**7 ARMS LENGTH**

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

Section 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 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;
- 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.

Furthermore, where:

- goods are exported to Australia otherwise than by the importer and are purchased by the importer from the exporter (whether before or after exportation) for a particular price; and
- the Minister is satisfied that the importer, whether directly or through an associate or associates, sells those goods in Australia (whether in the condition in which they were imported or otherwise) at a loss;

the Minister may treat the sale of those goods at a loss as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price.

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

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

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

**PUBLIC FILE**

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

## **8 DUMPING, MATERIAL INJURY AND CAUSATION**

### **8.1 General**

CMC indicated that one of the main drivers of BlueScope's injury cause is that it is in the market competing with itself. CMC explained that BlueScope's distribution arm needs to sell the goods in competition with its mill sales. It considers such behaviour is causing injury.

Another factor is business lost due to the increasing practice of importing pre-fabricated products in knock down components only to be erected in Australia, thereby passing the need for plate steel importation and demand from domestic fabricators.

A further cause of injury comes from the tax advantages of replacement rather than repair. Under a repair scenario, plate steel is imported and used in a manner to repair certain items. CMC indicated that this practice to import a new component is preferable over repairing the existing component. Again CMC cited the mining industry as a main protagonist.

Again a driver helping to fuel the importation of components is the project By-laws managed by Customs and Border Protection. CMC indicated that obtaining the By-law together with the cheap labour to fabricate items offshore offers significant cost advantages over having the goods fabricated in Australia.



## 9 UNSUPPRESSED SELLING PRICE

Unsuppressed selling price (USP) and non-injurious price (NIP) issues are examined at an early stage of an investigation and, where possible and appropriate, preliminary examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice.

Customs and Border Protection generally derives the NIP by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

Customs and Border Protection's preferred approach to establishing USPs observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, Customs and Border Protection then calculates a non-injurious price by deducting the costs incurred in getting the goods from the export free on board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

CMC commented that the calculation of the USP should take account of the domestic price premium BlueScope is able to charge to its customers, although it should be recognised that it is difficult to quantify this amount.

**PUBLIC FILE****10 RECOMMENDATIONS**

Based on the information available, the hot rolled plate steel imported by CMC in the investigation period from

[REDACTED]

- has been exported to Australia otherwise than by the importer;
- appears to have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arms' length transactions.

Subject to further inquiries with the exporter and supplier of the goods, at this stage we are satisfied that, in relation to exports from

[REDACTED]

the export prices can be established under s. 269TAB(1)(a) of the Act using the invoiced price less any charges incurred after exportation if required.

For those imports identified in Customs and Border Protection's import database as being supplied by any other entity excluding

[REDACTED]

, since all the circumstances pertaining to the exportation of the goods are not known, we are of the view that the export price should be established under section 269TAB(3) of the Act having regard to all relevant information.

**PUBLIC FILE****11 ATTACHMENTS**

<b>Confidential Attachment No.</b>	<b>Title</b>
Confidential Attachment GEN 1	Importer Questionnaire Response
Confidential Attachment GEN 2	Visit agenda
Confidential Attachment IMP 1	Source documents for 12 selected shipments
Confidential Attachment IMP 2	Bank charge details.
Confidential Attachment IMP 3	Credit insurance premiums
Confidential Attachment IMP 4	Supplier prices for abrasive resistant plate.
Confidential Attachment SALES 1	Audited financial statements for the year ended 31 August 2012
Confidential Attachment SALES 2	Steel Plate department SG&A report
Confidential Appendix 1	Sales route