



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

CUSTOMS ACT 1901 - PART XVB

INTERNATIONAL TRADE REMEDIES BRANCH

STATEMENT OF ESSENTIAL FACTS NUMBER 188

PRELIMINARY AFFIRMATIVE DETERMINATION 188

**ALLEGED DUMPING OF HOT ROLLED COIL STEEL
EXPORTED FROM JAPAN, THE REPUBLIC OF KOREA,
MALAYSIA AND TAIWAN**

3 October 2012

PUBLIC RECORD

1 CONTENTS

1	CONTENTS	2
2	SUMMARY AND RECOMMENDATIONS.....	4
2.1	Preliminary findings	4
2.2	Application of law to facts.....	4
2.3	Preliminary findings and conclusions	5
3	BACKGROUND	8
3.1	Introduction.....	8
3.2	Responding to this statement of essential facts.....	8
4	THE GOODS AND LIKE GOODS.....	10
4.1	Preliminary finding	10
4.2	The goods	10
4.3	Like goods	11
4.4	Claims by interested parties	11
4.5	Customs and Border Protection's assessment	14
5	AUSTRALIAN INDUSTRY	16
5.1	Preliminary finding	16
5.2	Production processes.....	16
6	AUSTRALIAN MARKET	18
6.1	Preliminary finding	18
6.2	Market size	18
6.3	Importers	19
6.4	Market supply and structure	19
7	DUMPING INVESTIGATION	20
7.1	Preliminary findings	20
7.2	Introduction.....	20
7.3	Japan.....	21
7.4	Korea – POSCO.....	22
7.5	Korea – Hyundai Co., Ltd	23
7.6	Korea – other exporters.....	24
7.7	Malaysia – Megasteel Sdn. Bhd.	24
7.8	Malaysia – other exporters	25
7.9	Taiwan – China Steel Corporation	26
7.10	Taiwan – Chung Hung Steel	27
7.11	Taiwan – Shang Chen Steel Co, Ltd	28
7.12	Taiwan – other exporters.....	29
8	HAS DUMPING CAUSED MATERIAL INJURY.....	31
8.1	Preliminary finding	31
8.2	Introduction.....	31
8.3	Approach to assessing material injury.....	31
8.4	Macro analysis – injury caused by dumping to the industry as a whole	33
8.5	Micro analysis - Pipe and tube sector	38
8.6	Micro analysis - Distribution and manufacturing sectors	41
8.7	Micro analysis - Automotive sector.....	44
8.8	Micro analysis - Manufacturing sector and exports from Malaysia	45
8.9	Other causes of injury	46
8.10	Impact of currency fluctuations	46
8.11	Increased raw material costs	46
8.12	Decrease in demand and low steel prices	48

PUBLIC RECORD

8.13	Management decisions and closure of BlueScope's HRC export business	51
8.14	Dumping investigations by other administrations	52
8.15	Injury to the Australian industry caused by dumping	52
9	WILL DUMPING AND MATERIAL INJURY CONTINUE	54
9.1	Preliminary findings	54
9.2	Introduction.....	54
9.3	Customs and Border Protection's assessment	54
10	NON INJURIOUS PRICE.....	55
10.1	Preliminary findings	55
10.2	Introduction.....	55
10.3	Unsuppressed selling price	55
10.4	Australian industry	56
10.5	Submissions from interested parties	56
10.6	Customs and Border Protection's assessment	56
11	PROPOSED MEASURES.....	59
12	PRELIMINARY AFFIRMATIVE DETERMINATION	60

PUBLIC RECORD

2 SUMMARY AND RECOMMENDATIONS

This investigation is in response to an application by BlueScope Steel Limited and BlueScope Steel (AIS) Pty Ltd. (BlueScope) in relation to the allegation that dumped hot rolled coil steel (HRC)¹ exported to Australia from Japan, the Republic of Korea (Korea), Malaysia and Taiwan caused material injury to the Australian industry producing like goods.

This statement of essential facts sets out the facts on which the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) proposes to base his recommendation in relation to the application.

2.1 Preliminary findings

Customs and Border Protection has found that HRC from Japan, Korea, Malaysia and Taiwan was exported at dumped prices during the investigation period, and that those exports caused material injury to the Australian industry.

Based on these preliminary findings and, subject to any submissions received in response to this SEF the delegate proposes to recommend that the Minister publish a dumping duty notice in respect of exports of HRC from Japan, Korea, Malaysia and Taiwan.

2.2 Application of law to facts

2.2.1 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901* (the Act) sets out, among other matters, the procedures to be followed and the matters to be considered by the CEO in conducting investigations in relation to the goods covered by an application.

2.2.2 Application

On 10 May 2012, BlueScope lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in respect of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan. The CEO was satisfied that the application was made in the prescribed manner by a person entitled to make the application.

2.2.3 Initiation of investigation

After examining the application, the CEO was satisfied that:

- there was, or was likely to be established, an Australian industry in respect of like goods; and

¹ Refer to the full description of the goods in section 4 of this report.

PUBLIC RECORD

- there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of goods the subject of the application.

The CEO decided not to reject the application and notice of the initiation of this investigation was published on 14 June 2012.

2.2.4 Statement of essential facts

The CEO must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows, place on the public record a statement of the facts on which the CEO proposes to base his recommendation in relation to the application.

In formulating the statement of essential facts, the CEO must have regard to the application concerned, any submissions concerning publication of the notice that are received by Customs and Border Protection within 40 days after the date of initiation of the investigation and any other matters considered relevant.

This statement of essential facts is due on or before 3 October 2012. In order to place the statement of essential facts on the public record in a timely manner, Customs and Border Protection was unable to take into consideration and address the following submissions:

- BlueScope Steel Limited, 21 September
- Minter Ellison on behalf of JFE Steel Corporation, Kobe Steel Ltd and Nisshin Steel Co Ltd, 25 September
- Shang Chen Steel Co Ltd, 26 September
- OneSteel Australian Tube Mills, 26 September
- Clayton Utz on behalf of Nippon Steel, 28 September
- Hunt and Hunt on behalf of Hyundai Steel Company, 2 October

These submissions will be considered in the final report.

2.3 Preliminary findings and conclusions

Customs and Border Protection has made the following preliminary findings and conclusions based on available information at this stage of the investigation.

2.3.1 The goods and like goods (chapter 4 of this report)

Locally produced HRC are like goods to the goods the subject of the application.

2.3.2 Australian industry (Chapter 5 of this report)

There is an Australian industry producing like goods, comprising of one Australian producer of HRC.

PUBLIC RECORD

2.3.3 Market (Chapter 6 of this report)

The Australian market for HRC is predominately supplied by locally produced HRC. Imports from the nominated countries make up most of the remainder, with a small volume of imports from other countries.

2.3.4 Dumping (Chapter 7 of this report)

Customs and Border Protection has found the following dumping margins:

Japan	7.5%
Korea – POSCO	6.0%
Korea – Hyundai Co., Ltd	4.5%
Korea – other exporters	11.8%
Malaysia – Megasteel Sdn. Bhd.	15.45%
Malaysia – other exporters	15.45%
Taiwan – China Steel Corporation	3.4%
Taiwan – Chung Hung Steel Corporation	8.5%
Taiwan – Shang Chen Steel Co, Ltd	3.3%
Taiwan – other exporters	8.5%

2.3.5 Has dumping caused material injury (Chapter 8 of this report)

The Australian industry suffered material injury as a result of dumped imports from Japan, Korea, Malaysia and Taiwan in the form of:

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

2.3.6 Will dumping and material injury continue? (Chapter 9 of this report)

Customs and Border Protection is satisfied that dumping and material injury will continue.

2.3.7 Non-injurious price (Chapter 10 of this report)

Customs and Border Protection considers that the non-injurious price can be established by reference to a constructed price which reflects an undumped import parity price.

2.3.8 Proposed measures (Chapter 11 of this report)

Measures will be applied on the basis of whether HRC is pickled and oiled, or dry. Customs and Border Protection found that the NIP is lower than the normal value for pickled and oiled HRC exported from Japan. Therefore, the NIP is the operative

PUBLIC RECORD

measure for these goods. In this instance the NIP has been determined to equal the export price.

For all other goods and nominated countries, the NIP exceeded the export price by more than the calculated dumping margin. This means that the lesser duty rule does not come into effect and the proposed measures are linked to the full margin of dumping.

2.3.9 Preliminary affirmative determination (Chapter 12 of this report)

Customs and Border Protection is satisfied that imports of HRC from the nominated countries and territory have caused material injury to BlueScope. It is likely that importations of HRC will occur in the future. Therefore Customs and Border Protection is of the view that it is necessary to make a PAD under section 269TD and impose securities under section 42 of the Act, so as to ensure that the industry does not suffer further injury while this investigation is completed.

PUBLIC RECORD

3 BACKGROUND

3.1 Introduction

On 10 May 2012, BlueScope lodged an application requesting that the Minister publish a dumping duty notice in respect of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan.

Following an examination of the application, the CEO decided not to reject the application and an investigation into the alleged dumping of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan was initiated on 15 June 2012. Public notification of initiation of the investigation was made in *The Australian* newspaper on 15 June 2012. Australian Customs Dumping Notice No. 2010/30 provides further details of this investigation and is available at www.customs.gov.au.

There have been no previous investigations into HRC by Australian anti-dumping authorities.

The investigation period was 1 April 2011 to 31 March 2012. Customs and Border Protection is examining the Australian market from 1 April 2008 for the purpose of analysing the condition of the Australian industry.

3.2 Responding to this statement of essential facts

This statement of essential facts sets out the essential facts on which Customs and Border Protection proposes to rely. It represents an important stage in the investigation as it informs interested parties of the facts established and allows them to make submissions in response. It is important to note that the statement of essential facts represents Customs and Border Protection's preliminary findings, and may not represent the final views of Customs and Border Protection.

Interested parties have 20 days to respond to this statement of essential facts. Responses to this statement of essential facts should be received by Customs and Border Protection no later than **23 October 2012**. A non-confidential version of any submission must also be provided at the same time as a confidential submission in order for Customs and Border Protection to take it into consideration. Customs and Border Protection is not obliged to have regard to any submission made in response to the statement of essential facts received after 23 October 2012.

Submissions should preferably be emailed to itrops1@customs.gov.au. Alternatively they may be sent to fax number +61 2 6275 6990, or posted to:

Director Operations 1
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
CANBERRA ACT 2601
AUSTRALIA

PUBLIC RECORD

Confidential submissions must be clearly marked accordingly and accompanied by a clearly marked non-confidential version for inclusion on the public record. A guide for making submissions is available at the Customs web site (follow the links to: Anti-Dumping > Reference Material > Guidance for Submissions).

The public record contains non-confidential submissions by interested parties, the non-confidential versions of Customs and Border Protection visit reports and other publicly available documents. It is available by request in Canberra (phone 02 6275 6547) or online at <http://www.customs.gov.au/anti-dumping/cases.asp>. This statement of essential facts should be read in conjunction with documents on the public record.

PUBLIC RECORD

4 THE GOODS AND LIKE GOODS

4.1 Preliminary finding

Customs and Border Protection considers that locally produced HRC are like goods to the goods the subject of the application.

4.2 The goods

The goods the subject of the application are described as:

Hot rolled coil (including in sheet form), a flat rolled product of iron or non-alloy steel, not clad, plated or coated (other than oil coated).

Goods excluded from this application are hot rolled products that have patterns in relief (known as checker plate) and plate products.

There are a number of relevant international standards for HRC that cover the range of HRC products via specific grade designations, including the recommended or guaranteed properties of each of these product grades. The relevant Australian Standard is AS/NZS 1594.

Customs and Border Protection has the view that plate products excluded from the investigation is plate that is 3/16th of an inch (4.75mm) thick or more. Sheet products, which are included in the goods to be investigated, are below this thickness.

4.2.1 Tariff classification

The tariff classifications and statistical class codes in Schedule 3 to the *Customs Tariff Act 1995* and relevant rates of duty for HRC are shown below.

Tariff Classification	Statistical class code	Rate of duty - Japan	Rate of duty - Korea	Rate of duty - Malaysia	Rate of duty - Taiwan
7208.25.00	32	5%	0%	0%	0%
7208.26.00	33	5%	0%	0%	0%
7208.27.00	34	5%	0%	0%	0%
7208.36.00	35	5%	0%	0%	0%
7208.37.00	36	5%	0%	0%	0%
7208.38.00	37	5%	0%	0%	0%
7208.39.00	38	5%	0%	0%	0%
7208.53.00	42	5%	0%	0%	0%
7208.54.00	43	5%	0%	0%	0%

PUBLIC RECORD

7208.90.00	30	5%	5%	4%	5%
7211.14.00	40	5%	0%	0%	0%
7211.19.00	41	5%	0%	0%	0%

Customs and Border Protection's Tariff Section identified that HRC may also be classified under 7208.51.00 (statistical class code 40) and 7208.52.00 (statistical class code 41), however, the goods classified under these headings are predominately plate or other products.

4.3 Like goods

The Act refers to "the goods" and "like goods". "The goods" are those exported to Australia and alleged as being the cause of material injury to Australian industry. "Like goods" are "goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration".²

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

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

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

4.4 Claims by interested parties

The following interested parties made submissions in relation to the determination of like goods:

- A.D. Coote & Co;
- the Australian Steel Association Inc;
- CITIC Australia Commodity Trading Pty Ltd;
- Dematic Pty Ltd;

² Subsection 269T(1)

PUBLIC RECORD

- Ford Motor Company of Australia Limited;
- GM Holden Limited;
- GS Global Australia Pty Ltd;
- Hyundai Steel Company;
- JFE Steel Corporation;
- Kobe Steel, Ltd.;
- Nippon Steel Corporation;
- Nisshin Steel Co., Ltd.;
- OneSteel Trading Pty Ltd;
- POSCO;
- SK Steel Australia Pty Ltd;
- Stemcor Australia Pty Ltd;
- Tokyo Boeki (Australia) Pty Ltd;
- Toyota Motor Corporation Australia Limited;
- Toyota Tsusho (Australasia) Pty Ltd;

Specifics of any non-confidential claims submitted, where not discussed below, are available in the respective submissions/reports available on the public record.

4.4.1 Differences in Australian and International standards

Interested parties submit that it is difficult to compare grades as the Australian standard sits between the American and Japanese standards. Interested parties have also outlined that standards provide minimum mechanical properties which can then vary from mill to mill and that customers are able to vary the grade required by, for example, using thicker HRC.

BlueScope submits that Australian and International standards are comparable as they ensure that the product accords with the required mechanical properties for each standard, by ensuring the steel chemistry, processing temperature, coiling temperature and percentage thickness reduction.

BlueScope provided details of its most common grades of HRC steel with the international equivalent in its application. During the course of the investigation interested parties confirmed the appropriate Australian and International graded HRC product for comparison.

Given that we have been able to identify comparable Australian and International standards during the investigation, Customs and Border Protection does not consider that this issue impacts the determination of like goods.

PUBLIC RECORD

4.4.2 Grade and quality

Interested parties have submitted that BlueScope does not currently produce HRC products similar in quality or technical specifications to that of certain imported products. This is particularly pertinent to the automotive sector because it previously sourced locally manufactured goods from BlueScope's Western Port Hot Strip Mill. This facility was approved by Toyota Motor Asia Pacific Engineering and Manufacturing (TMAP-EM) and Ford Australia production. BlueScope's Port Kembla operation has not been approved for use by Toyota or Ford.

A.D. Coote & Co also submitted that BlueScope consistently provided HRC of a poor quality, so that some products had to be returned. It further claimed that these issues have not arisen with the imported product.

BlueScope has submitted that HRC is a commodity product used across various applications. BlueScope provided Customs and Border Protection a list of its sales of HRC during the investigation into particular sectors. This confirms that HRC can be sold into various sectors to be used for a number of end uses, for example, automotive grades are also sold into general manufacturing. Whilst BlueScope has confirmed that some specific automotive HRC requirements may fall outside its HRC specification range, this does not detract from a finding of like goods, but rather relates to injury caused by dumping imports which is examined in chapter 8.

4.4.3 Width and thickness

Since the closure of its Western Port Hot Strip Mill, interested parties claim BlueScope is unable to manufacture HRC products of a width greater than 1550mm wide. BlueScope has confirmed this to be the case.

Further, it has been submitted that BlueScope cannot produce HRC under 1.5 mm thick or above 6 mm thick. This impacts the potential end use of the product. It was also claimed that BlueScope can only reduce the thickness of HRC by cold rolling the HRC, which significantly increases cost. BlueScope, in its application, provides that it can produce HRC in a thickness range of 1.5 mm to 12.7 mm. BlueScope has confirmed that it is unable to produce HRC of a width greater than 1550 mm following the closure of its Western Port hot strip mill.

4.4.4 Circumvention concerns

The tariff classification for HRC excludes HRC with small quantities of boron added. It has been submitted that this could potentially lead to an evasion of any measures that may be imposed, as small quantities of boron do not change the metallurgical properties of the HRC or impact potential end use of the product.

Customs and Border Protection notes that this particular claim is not relevant to determination of like goods as HRC with boron is an alloy steel product that falls outside of the goods description.

PUBLIC RECORD

4.4.5 Exemption of certain goods from measures

In the event that measures are imposed on HRC exports from the nominated countries, all grades, types and models of HRC that conform to the goods description will be subject to the dumping duty notice unless the Minister exempts particular goods. For goods to be exempt from measures, the Minister must be satisfied:

- that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade; or
- that a Tariff Concession Order is in place in respect of those goods; or
- that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.

Customs and Border Protection seeks the views of all interested parties on whether grounds exist for imported HRC that falls outside of BlueScope's width and thickness production capability to be exempt from measures. Interested parties should, where possible, provide evidence to support the claim that like or directly competitive goods are not offered for sale in Australia.

4.5 Customs and Border Protection's assessment

Customs and Border Protection considers that the Australian industry produces like goods on the following grounds:

i. *Physical likeness:*

- Both imported and locally produced HRC conforms to an Australian or International standard, which sets the minimum requirements of the product's chemical composition;
- both imported and locally produced HRC is available as numerous different products distinguished on the basis of grade, width, thickness, quality and combinations thereof; and
- both imported and locally produced HRC is available in various finishes, included dry, skin passed and pickled and oiled.

ii. *Commercial likeness*

- Australian industry products compete directly with imported goods in the Australian market, as evidenced by the supply of imported HRC to many customers of Australian industry.

iii. *Functional likeness*

- Both imported and locally produced HRC have identical or comparable end-uses as evidence by Australian industry customers that source equivalent imported HRC.

iv. *Production likeness*

- Australian industry products are manufactured in a similar manner to the imported goods from Japan, Korea and Taiwan. The difference in production for goods from Malaysia is set out in 5.3 below; and

PUBLIC RECORD

- despite a different process of manufacture, all goods remain physically, commercially and functionally alike.

The findings on i, ii, iii and iv lead to the conclusion that locally produced HRC, while not identical, has characteristics closely resembling the imported goods. These findings are not premised on a comparison of individual imported and locally produced models, but represent a global consideration of the goods.

Customs and Border Protection therefore considers that HRC produced by the Australian industry is like goods to the goods exported from Japan, Korea, Malaysia and Taiwan.

PUBLIC RECORD

5 AUSTRALIAN INDUSTRY

5.1 Preliminary finding

Customs and Border Protection found³ that:

- there is an Australian industry producing like goods;
- the like goods were wholly manufactured in Australia; and
- there is an Australian industry consisting of BlueScope that produce like goods in Australia.

5.2 Production processes

For goods to be regarded as being produced in Australia, they must be wholly or partly manufacturing in Australia.⁴ In order for goods to be considered as partly manufactured in Australia, at least one substantial process of manufacture of those goods must be carried out in Australia.⁵

5.2.1 Production processes

There are two methods of steel production, being the Basic Oxygen Steelmaking (BOS) process and the Electric Arc Furnace (EAF) process. The Australian industry and imported HRC from Japan, Korea and Taiwan is produced using the BOS process. Imported HRC from Malaysia is produced using the EAF process.

The BOS process uses iron ore, coking coal and fluxes as its base materials, which becomes steel in a two stage process:

- *Iron making:* air that has been heated to 1200°C is blown into a blast furnace containing iron ore, coking coal and fluxes in order to create the required chemical reaction. Iron ore is reduced to molten iron by removing the oxygen. Slag is a by-product of this process.
- *Steel making:* a BOS vessel containing molten iron, scrap steel and alloying materials is charged by blowing 99% pure oxygen onto the mixture, raising the temperature of the vessel to approximately 1700C. Fluxes are then fed into the vessel to form slag which absorbs the impurities of the steelmaking process. Molten steel is produced. Samples are taken at this stage to ensure the desired chemistry is achieved. The molten steel is further refined by adding alloying materials to it and slag is once again poured off to remove impurities.

For the EAF process, scrap steel is the primary raw material, which is supplemented with pig iron, hot briquette iron and hot direct reduced iron. The EAF process utilises

³ Pursuant to subsection 269T

⁴ Subsection 269T(2)

⁵ Subsection 269T(3)

PUBLIC RECORD

a simpler process than BOS to produce molten steel, in which steel scrap and hot direct reduction iron is melted via a Direct Current EAF. The grade of the finished product is determined by the grade of the scrap steel base. Molten steel is conditioned and refined by adding alloying materials to the steel mixture by utilising a Ladle Furnace. The molten steel is tested at this stage to ensure the desired chemistry is achieved.

Steel produced by either method is then cast using continuous casting machines that mould the steel into solidified blocks of steel called slab. The slab is cut to desired lengths and then cooled. To produce HRC, this slab is reheated to a temperature of 1200 °C and passed through a hot strip mill. Here the heated slab has scale removed and is passed through a roughing mill where its thickness is reduced to around 40 mm. The slab is then passed through five or six rolling mill stands to reduce the slab to the desired thickness. The strip is coiled and cooled.

The HRC produced after hot strip rolling is the most basic HRC product available and has an oxidized strip surface which is termed hot-mill scale. This can be further treated to remove the film to become a skin passed product. Alternatively, basic HRC can be processed through heated acid baths to produce a pickled and oiled product. The skin passed and pickled and oiled products can have different end uses to basic HRC. This range of finished coil can be cut to form hot rolled sheet or hot rolled plate.

5.2.2 Australian industry production

Customs and Border Protection undertook a verification visit at BlueScope's Port Kembla Steelworks. BlueScope undertakes the BOS process in HRC production. Associated production processes and costs were reviewed during this visit as detailed in the Australian industry visit report on the public record.

Customs and Border Protection is satisfied that BlueScope undertakes more than one substantial process of HRC manufacture at its Port Kembla Steelworks.

PUBLIC RECORD

6 AUSTRALIAN MARKET

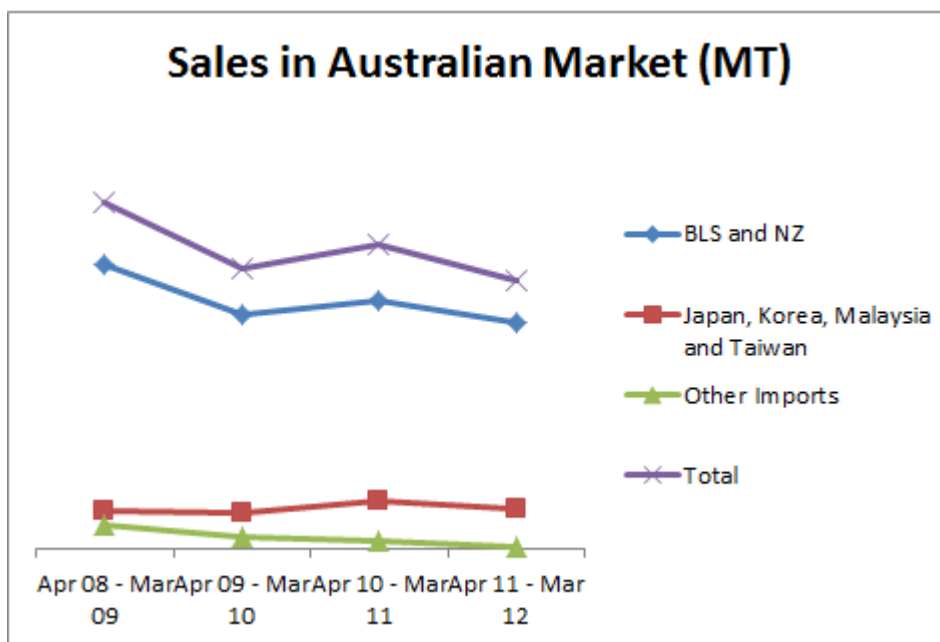
6.1 Preliminary finding

Customs and Border Protection estimates the size of the Australian market for HRC to be between 750,000 and 1,000,000MT. The market is supplied predominately by BlueScope and the remainder by imports. HRC is sold into three market sectors.

6.2 Market size

Customs and Border Protection has used information from the Australian industry, exporters, importers and its import database to examine the Australian market for HRC.

The Australian market for HRC has been found to fluctuate between 750,000 and 1,000,000MT. This market size refers to goods sold into the Australia market as HRC and excludes internal transfers within BlueScope for the production of other products. Imports have been found to account for approximately 20% of the Australian market. Import volumes and the Australian industry's sales are charted below. Included with the Australian industry's sales (and excluded from import volumes) are sales from BlueScope's New Zealand based subsidiary, New Zealand Steel. This chart shows that over the injury period the Australian market for HRC has contracted.



PUBLIC RECORD

6.3 Importers

Customs and Border Protection performed a search of its import database and identified importers of HRC. The largest eight importers accounted for 90% of HRC imported from the nominated countries.

Customs and Border Protection undertook visits to these eight importers and prepared reports following the visits:

- CITIC Australia Commodity Trading Pty Ltd
- CMC Australia Pty Ltd
- GS Global Australia Pty Ltd
- One Steel Australian Tube Mills
- OneSteel Trading Pty Ltd
- SK Steel Australia Pty Ltd
- Stemcor Australia
- Tokyo Boeki (Australia) Pty Ltd

6.4 Market supply and structure

Customs and Border Protection has established that the Australian market for HRC is supplied through local production and imports from a number of source countries, in addition to those nominated in the application.

Sales of HRC into the Australian market are made to the following three main sectors:

- Pipe and tube (the largest);
- General manufacturing; and
- Automotive

HRC is also sold to distributors, who in turn sell it into all three sectors. Customs and Border Protection found that market dynamics in each of these sectors were quite different and accordingly has examined each sector separately in chapter 8 to determine if dumping has caused material injury.

PUBLIC RECORD

7 DUMPING INVESTIGATION

7.1 Preliminary findings

Dumping margins for the investigation period were calculated by comparing weighted average export prices with the corresponding weighted average normal values. Dumping margins are summarised in the following table:

Japan	7.5%
Korea – POSCO	6.0%
Korea – Hyundai Co., Ltd	4.5%
Korea – other exporters	11.8%
Malaysia – Megasteel Sdn. Bhd.	15.45%
Malaysia – other exporters	15.45%
Taiwan – China Steel Corporation	3.4%
Taiwan – Chung Hung Steel Corporation	8.5%
Taiwan – Shang Chen Steel Co, Ltd	3.3%
Taiwan – other exporters	8.5%

7.2 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively.

This chapter explains the preliminary results of investigations by Customs and Border Protection into whether HRC was exported from Japan, Korea, Malaysia and Taiwan at dumped prices during the investigation period.

7.2.1 Exporters

At the commencement of the investigation, Customs and Border Protection identified a large number of potential exporters of HRC from the nominated countries and territory. Within this group were a number of trading companies. Customs and Border Protection forwarded questionnaires to all known exporters from the nominated countries, with a view to investigating their exportations.

When Customs and Border Protection received responses to the exporter questionnaires, it determined that verification of responses provided by trading companies was not necessary. Traders of HRC operated as intermediaries between the manufacturers of the goods in each nominated country. Given this, Customs and Border Protection considered that the manufacturers, and not the trading companies, are the exporters for the purpose of determining whether dumping has occurred.

PUBLIC RECORD

Customs and Border Protection assessed the level of verification required for all exporters from each of the countries that satisfactorily completed the exporter questionnaire. Individual dumping margins for all known exporters have been calculated based on the verified information of each cooperating exporter.

In addition, Nippon Steel Corporation (Nippon Steel) and JFE Steel Corporation (JFE Steel) provided limited information required by the exporter questionnaire. Both parties also refused access to Customs and Border Protection for verification purposes. Therefore, Customs and Border Protection has determined that these exporters have not cooperated with the investigation. Given that Nippon Steel and JFE Steel are the only manufacturers of HRC in Japan that were identified in the investigation, a country wide dumping margin has been determined for exports of HRC from Japan to Australia during the investigation period based on all relevant information, including information contained in the application.

7.3 Japan

7.3.1 Export prices

An export price was determined using the Australian sales data provided by Nippon Steel and JFE Steel as confirmed by verified information obtained from importers.

This information was determined by Customs and Border Protection to be relevant and reliable for the calculation of export prices as it used verified data provided from the abovementioned importers and also reconciled to information submitted by BlueScope in its application.

On the basis of the Australian sales information provided by Nippon Steel and JFE Steel, Customs and Border Protection was able to establish weighted average export prices for dry HRC products and pickled and oiled HRC products.

Export prices were determined under s.269TAB(3), having regard to all relevant information.

7.3.2 Normal Value

As noted earlier, none of the known Japanese exporters provided information to enable normal values to be based on domestic sales or constructed domestic selling prices. In the absence of sufficient information, normal values have been determined under s.269TAC(6) using all relevant information.

Information contained in BlueScope's application was used to estimate normal values during the investigation period as it is considered to be reliable and relevant information for the purposes of determining normal values. The information referenced a February 2012 domestic price list from a Japanese producer's website which included an extras price list for various grades, widths, thicknesses and finishes such as pickled and oiled.

Customs and Border Protection made the following adjustments to ensure proper comparison with export prices:

PUBLIC RECORD

- upward adjustment based on the extras price list for the various grades of HRC exported to Australia; and
- upward adjustment based on the extras price list to account for the pickled and oiled HRC exports.

7.3.3 Dumping margin

Export prices were compared to normal values for the corresponding type of HRC product. The weighted average dumping margin for HRC exported from Japan was 7.5%.

7.4 Korea – POSCO

7.4.1 Export prices

POSCO was the exporter of the goods and sales of HRC to Australian customers are considered to be arm's length transactions. For direct export sales to POSCO Australia export prices were calculated pursuant to subsection 269TAB(1)(a) using the invoices price less any charge in respect of transport of the goods or any other matter arising after exportation. For indirect export sales, the export price was determined under subsection 269TAB(1)(c) having regard to all the circumstances of exportation.

7.4.2 Normal Value

POSCO sold like goods on the domestic market during the investigation period in arm's length transactions.

For half of all export sales during the investigation period there was sufficient volume of sales in the domestic market of the comparable model sold in the ordinary course of trade. For these grades, domestic sales were used to establish normal values pursuant to subsection 269TAC(1), with adjustments to domestic selling prices to ensure fair comparison to export prices for:

- credit terms;
- interest revenue;
- domestic selling expenses;
- handling, loading and ancillary costs;
- domestic inland freight and warehousing;
- export inland freight
- packing;
- warranty costs, and
- duty drawback.

Where there were no domestic sales of the export model in the quarter of export, Customs and Border Protection constructed normal values pursuant to subsection

PUBLIC RECORD

269TAC(2)(c), using the cost to make the exported product plus profit achieved on domestic sales. The relevant adjustments outlined above were then made to ensure a fair comparison between the constructed normal value and the export price.

7.4.3 Dumping margin

A dumping margin for the investigation period has been calculated by comparing export transactions with the corresponding quarterly normal value for the comparable model of HRC.

The weighted average dumping margin for HRC sold by POSCO during the investigation period is **6.0%**.

7.5 Korea – Hyundai Co., Ltd

7.5.1 Export prices

Hyundai Co., Ltd (Hyundai) was the exporter of the goods and sales of HRC to Australian customers are considered to be arm's length transactions. For direct export sales, export prices were calculated pursuant to subsection 269TAB(1)(a) using the invoiced price less amounts for ocean freight and/or marine insurance as appropriate. For indirect export sales, the export price was determined under subsection 269TAB(3) using the invoiced price.

7.5.2 Normal Value

Hyundai sold like goods on the domestic market during the investigation period in what were found to be arm's length transactions.

For 4 of the 5 models of HRC exported to Australia there was sufficient volume of sales in the domestic market sold in the ordinary course of trade. For these grades, domestic sales were used to establish normal values, with adjustments to domestic selling prices to ensure fair comparison to export prices for:

- credit terms;
- domestic warranty expenses;
- advertising expenses;
- domestic inland transport;
- payment guarantee charge; and
- export inland transport and handling charges.

For the remaining model in which there were no domestic sales, Customs and Border Protection constructed normal values pursuant to subsection 269TAC(2)(c), using the cost to make the exported product plus domestic SG&A costs plus the rate of profit achieved on domestic sales of like goods in the ordinary course of trade. The relevant adjustments outlined above were then made to ensure a fair comparison between the constructed normal value and the export price.

PUBLIC RECORD

7.5.3 Dumping margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all other exporters for the investigation period, with the corresponding normal value in accordance with subsection 269TACB(2)(a).

The weighted average dumping margin for HRC sold by Hyundai during the investigation period is **4.5%**.

7.6 Korea – other exporters

7.6.1 Export prices

Sufficient information has not been furnished to enable export prices of HRC exported to Australia from Korea by other exporters to be determined under subsections 269TAB(1)(a), (b) or (c).

The export price for other exporters of HRC from Korea has been determined pursuant to subsection 269TAB(3), having regard to all relevant information, by reference to the lowest verified weighted average export price of the goods exported to Australia from Korea over the investigation period.

7.6.2 Normal Value

Sufficient information has not been furnished to enable normal value of HRC exported to Australia from Korea by other exporters to be determined under subsections 269TAC(1) or (2).

The normal value for HRC for other exporters from Korea has been determined pursuant to subsection 269TAC(6), having regard to all relevant information, by reference to the highest verified weighted average normal value in Korea over the investigation period without any favourable adjustments.

7.6.3 Dumping margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all other exporters for the investigation period, with the corresponding normal value in accordance with subsection 269TACB(2)(a).

The dumping margin for HRC exported to Australia from Korea by other exporters is **11.8%**.

7.7 Malaysia – Megasteel Sdn. Bhd.

7.7.1 Export prices

Megasteel Sdn. Bhd (Megasteel) was the exporter of the goods and exported HRC to two Australian customers. Sales between Megasteel and the Australian importers were arm's length transactions. Export prices for Megasteel were calculated pursuant to subsection 269TAB(1)(a) using the invoiced prices for sales to Australia.

PUBLIC RECORD

7.7.2 Normal Value

Megasteel sold like goods on the domestic market during the investigation period in what were found to be arm's length transactions.

Megasteel identified that only two of the four HRC grades exported to Australia were sold domestically. It identified two domestic grades comparable to the export grades sold. Customs and Border Protection was satisfied at verification that the nominated domestic grades were comparable to the export grades.

For the two export models that were sold on the domestic market there were insufficient sales in the ordinary course of trade to use in the determination of dumping margins. Customs and Border Protection identified domestic grades within the same grouping that attracted the same costs as the export grades in question. Domestic sales of these products were used for establishing normal values.

Customs and Border Protection made adjustments to the normal value under s.269TAC(8) for:

- domestic credit;
- domestic inland transport;
- export inland freight;
- export packaging;
- export terminal handling; and
- slitting and pickling and oiling costs.

For three months during the investigation period there were no domestic sales in the ordinary course of trade. Normal values were constructed for these months by making an adjustment to the normal value from the following month based on the difference in the CTMS between these months except in one instance where no adjustment was made as the CTMS differed by less than 0.6%. The constructed normal values also incorporated the abovementioned adjustments to ensure they were fairly comparable to export prices.

7.7.3 Dumping margin

Export prices were compared to normal values for each corresponding grade of HRC. The weighted average dumping margin for HRC exported by Megasteel was **15.45%**.

7.8 Malaysia – other exporters

7.8.1 Export prices

Sufficient information has not been furnished to enable export prices of HRC exported to Australia from Malaysia by other exporters to be determined under subsections 269TAB(1)(a), (b) or (c).

PUBLIC RECORD

The export price for other exporters of HRC from Malaysia has been determined pursuant to subsection 269TAB(3), having regard to all relevant information, by reference to the weighted average export prices determined for Megasteel over the investigation period.

7.8.2 Normal Value

Sufficient information has not been furnished to enable normal value of HRC exported to Australia from Malaysia by other exporters to be determined under subsections 269TAC(1) or (2).

The normal value for HRC for other exporters from Malaysia has been determined pursuant to subsection 269TAC(6), having regard to all relevant information, by reference to normal values determined for Megasteel over the investigation period without any favourable adjustments.

7.8.3 Dumping margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all other exporters for the investigation period, with the corresponding normal value in accordance with subsection 269TACB(2)(a).

The dumping margin for HRC exported to Australia from Malaysia by other exporters is **15.45%**.

7.9 Taiwan – China Steel Corporation

7.9.1 Export prices

China Steel Corporation (CSC) was the exporter of the goods and transactions between it and its unrelated importer are considered to be arm's length. Export prices for each model sold by CSC to Australia were calculated pursuant to section 269TAB(1)(a) using the invoiced price paid by the importer.

7.9.2 Normal Value

CSC sold like goods on the domestic market during the investigation period in what were found to be arm's length transactions.

For some models of HRC exported to Australia there was a sufficient volume of sales in the domestic market sold in the ordinary course of trade. For these grades, domestic sales were used to establish normal values under s.269TAC(1), with adjustments to domestic selling prices under s.269TAC(8) to ensure fair comparison to export prices for:

- inland freight;
- credit terms;
- domestic sales expense;
- terminal handling charges and loading fees;

PUBLIC RECORD

- sales related expenses;
- CSGT service fee; and
- bank charges.

In some instances, sufficient sales were made in the ordinary course of trade in the domestic market, but these sales did not occur in the same quarter as export sales. For periods in which an export sale of a particular model existed with no suitable corresponding normal value, the normal value of an alternative model was used with appropriate adjustments for characteristics that affected price using the extras pricing sheets provided by CSC.

For some models there were no sales, or insufficient sales, on the domestic market in the ordinary course of trade. In these circumstances, normal value was determined under s.269TAC(1) using the selling price of another model sold in the ordinary course of trade. Adjustments for specification differences, using the extras pricing sheets provided by CSC, were made under s.269TAC(9) to ensure proper comparison.

7.9.3 Dumping margin

The dumping margin was determined by comparing the weighted average of export prices to the corresponding weighted average of normal values for the investigation period. The product dumping margin was determined to be **3.4%** for the investigation period.

7.10 Taiwan – Chung Hung Steel

Customs and Border Protection conducted desk audit of Chung Hung Steel (CHS). At the time of the publication of this report CHS has been unable to provide a non-confidential version of the audit report. This section provides a summary of the methodology used by Customs and Border Protection to determine normal value and export price, and the dumping margin found.

7.10.1 Export prices

Chung Hung Steel (CHS) was the exporter of the goods and sales between it and its Australian customers are considered to be arm's length transactions. Export prices for CHS were calculated pursuant to subsection 269TAB(1)(a) using the invoiced prices for sales to Australia less, as appropriate, any expense that represents a charge for any matter arising after exportation.

7.10.2 Normal Value

CHS sold like goods on the domestic market during the investigation period in what were found to be arm's length transactions.

Where there were sufficient volumes of domestic sales in the ordinary course of trade, in a corresponding period to which export sales were made, those sales were suitable for establishing normal values under section 269TAC(1). In accordance with

PUBLIC RECORD

s.269TAC(8), adjustments were made to ensure the comparability of domestic sales to export prices for:

- inland freight and handling costs;
- packaging;
- credit terms;
- commissions; and
- service fees.

For periods in which there were no suitable domestic sales of like goods in the ordinary course of trade, normal values were established under subsection 269TAC(2)(c) using the cost to make and sell the exported goods plus a reasonable amount of profit. Profit for these models was determined by calculating the weighted average rate of profit achieved by CHS on sales of like goods in the ordinary course of trade.

For models where all domestic sales were sold unprofitably and were not recoverable, normal value was constructed with no profit as per s.269TAC(13).

7.10.3 Dumping margin

The dumping margin was determined by comparing the weighted average of export prices with the weighted average of corresponding normal values over the investigation period in accordance with subsection 269TACB(2)(a). The dumping margin for HRC exported to Australia by CHS in the investigation period was **8.5%**.

7.11 Taiwan – Shang Chen Steel Co, Ltd

7.11.1 Export prices

Shang Chen Steel Co, Ltd (Shang Chen) was the exporter of the goods and sales between it and its Australian customers are considered to be arm's length transactions. Export prices for CHS were calculated pursuant to subsection 269TAB(1)(a) using the invoiced prices for sales to Australia less any freight or transportation costs as applicable.

7.11.2 Normal Value

Shang Chen sold like goods on the domestic market during the investigation period which were found to be arm's length transactions.

Where suitable domestic sales were made in a corresponding period to which comparable export models were sold, normal values for those sales were determined pursuant to subsection 269TAC(1). Adjustments under s.269TAC(8) were made to ensure the comparability of domestic sales to export prices for:

- domestic credit terms;
- inland freight; and

PUBLIC RECORD

- export packing costs.

Where a comparable domestic model was not sold in the same period for which an export model was sold, Customs and Border Protection adjusted the normal value of the most recent previous month where sales were made, based on the cost difference between these periods.

In some instances, there were no domestic sales, or insufficient domestic sales made in the ordinary course of trade of comparable models during the investigation period. Customs and Border Protection determined normal values pursuant to subsection 269TAC(1) by adjusting the selling price of a comparable domestic product sold in the ordinary course of trade for the physical differences between the two products. For pickled and oiled and sheet HRC, these physical difference adjustments were based on costs difference, while all other adjustments were based on the price extras sheet provided by the company.

7.11.3 Dumping margin

The dumping margin was determined by comparing the weighted average of export prices with the corresponding weighted average normal values for the investigation period in accordance with subsection 269TACB(2)(a).

The dumping margin for HRC exported to Australia by Shang Chen in the investigation period was **3.3%**.

7.12 Taiwan – other exporters

7.12.1 Export prices

Sufficient information has not been furnished to enable export prices of HRC exported to Australia from Taiwan by other exporters to be determined under subsections 269TAB(1)(a), (b) or (c).

The export price for other exporters of HRC from Taiwan has been determined pursuant to subsection 269TAB(3), having regard to all relevant information, by reference to the lowest verified weighted average export price of the goods exported to Australia from Taiwan over the investigation period.

7.12.2 Normal Value

Sufficient information has not been furnished to enable normal value of HRC exported to Australia from Taiwan by other exporters to be determined under subsections 269TAC(1) or (2).

The normal value for HRC for other exporters from Taiwan has been determined pursuant to subsection 269TAC(6), having regard to all relevant information, by reference to the highest verified weighted average normal value in Taiwan over the investigation period without any favourable adjustments.

PUBLIC RECORD

7.12.3 Dumping margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all other exporters for the investigation period, with the corresponding normal value in accordance with subsection 269TACB(2)(a).

The dumping margin for HRC exported to Australia from Taiwan by other exporters is **8.5%**.

PUBLIC RECORD

8 HAS DUMPING CAUSED MATERIAL INJURY

8.1 Preliminary finding

Customs and Border Protection has made a preliminary finding that BlueScope has suffered material injury and that there is a causal link between the material injury experienced by BlueScope and the dumped goods imported from Japan, Korea, Malaysia and Taiwan. Customs and Border Protection has found that due to these dumped imports, BlueScope has suffered injury in the form of:

- price suppression;
- price depression;
- lost revenue; and
- lost profits and profitability.

8.2 Introduction

This section examines whether dumped imports of HRC from Japan, Korea, Malaysia and Taiwan have caused material injury to the Australian industry.

The Minister may publish a dumping duty notice and impose anti-dumping measures on future exports of like goods, where the Minister is satisfied that:

- the amount of the export price of the goods is less than the amount of the normal value of those goods; and
- the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods;
- because of that, material injury to the Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered.⁶

Customs and Border Protection sent questionnaires to the largest importers and end-users of HRC from the countries under consideration. The parties identified provided information, which was subsequently verified by Customs and Border Protection, on imports of HRC. Other importers were also invited to make submissions in relation to the investigation.

8.3 Approach to assessing material injury

In assessing material injury caused by dumping, Customs and Border has first conducted a macro-analysis, which looks at imports, market share, prices and

⁶ S 269TG

PUBLIC RECORD

industry performance across the Australian market. In conducting this assessment, price undercutting is assessed by comparing the price of imported and locally produced HRC on the basis of:

- pricing for the total class of goods; and
- pricing by product categories.

Due to the complexities in the market, which include the range of products within the HRC category and the different market sectors, Customs and Border Protection has also conducted a micro-analysis. This micro analysis examines the injury and effects of dumping within each market sector. In conducting this assessment, where possible price undercutting has been conducted by comparing the price of imported and locally produced HRC on the basis of:

- pricing by market segment; and
- pricing by particular grades, and
- where possible, direct comparison of prices to common customers.

Following its examination of the effects of dumped imports on BlueScope's performance in each of the key sectors that make up the Australian market, Customs and Border Protection has assessed the overall impact that dumped imports had on the whole industry to determine whether injury attributable to dumped imports is material.

In determining the effect of the exportation of the goods to Australia from the countries under consideration, the cumulative effect of those exportations should be considered, after having regard⁷ to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced.

Customs and Border Protection has examined the conditions of competition between the exported goods. There are four main market segments for HRC: pipe and tube; manufacturing; automotive; and distribution (which sells indirectly to the other three market segments). Customs and Border Protection has found that imports from Japan, Korea, Malaysia and Taiwan all compete across multiple market sectors. For example, both Japan and Korea supply the automotive sector and the pipe and tube market. Furthermore, some importers have imported HRC of the same grade from at least two of the countries/regions, which indicates that the products are used by the same or similar customers.

⁷ S.269TAE(2C) of the Act

PUBLIC RECORD

Customs and Border Protection considers that the conditions of competition between imported and domestically produced HRC are similar as domestically-produced HRC can be directly substituted with imported HRC (as discussed in chapter 4).

While several interested parties requested the assessment of injury to be done on the basis of country and exporter, the conditions of competition are such that it is appropriate to consider the cumulative effect of the dumped imports from Japan, Korea, Malaysia and Taiwan across all market sectors.

8.4 Macro analysis – injury caused by dumping to the industry as a whole

8.4.1 BlueScope's claims

BlueScope claims that it has suffered injury as a result of dumped imports from Japan, Korea, Malaysia and Taiwan. It argues that injury from dumped imports commenced in 2010/11 when the volume of imports from the nominated sources increased.

BlueScope stated that dumped imports undercut its prices and it was accordingly forced to reduce prices to maintain market share. These price reductions resulted in price depression, as well as price suppression because raw material prices were increasing at the time, resulting in lost revenue, profits and profitability. BlueScope also argues that injury was also suffered in regards to reduced employment, reduced wages expenses and reduced return on investment.

BlueScope stated that the HRC market in Australia contracted in 2011/12 but in this period not all suppliers were impacted equally. Whilst imports did decline, its own sales experienced a greater decline. Furthermore, in the context of a contracting market, it was more susceptible to the effects of dumped imports.

BlueScope argues it can compete with fairly priced imports and operate profitably but that it cannot continue to match price offers from dumped imports as it seeks to hold market share and maintain production volumes. It notes that global demand for steel is weak and this has resulted in exporters looking for markets for their excess capacity.

BlueScope claimed that imports from Japan and Korea entered the pipe and tube market sector; imports from Taiwan and Korea were prevalent in the distribution sector; Japan exported to the automotive sector; and imports from Malaysia targeted the manufacturing sector, specifically the rock bolt industry.

8.4.2 Assessment of injury

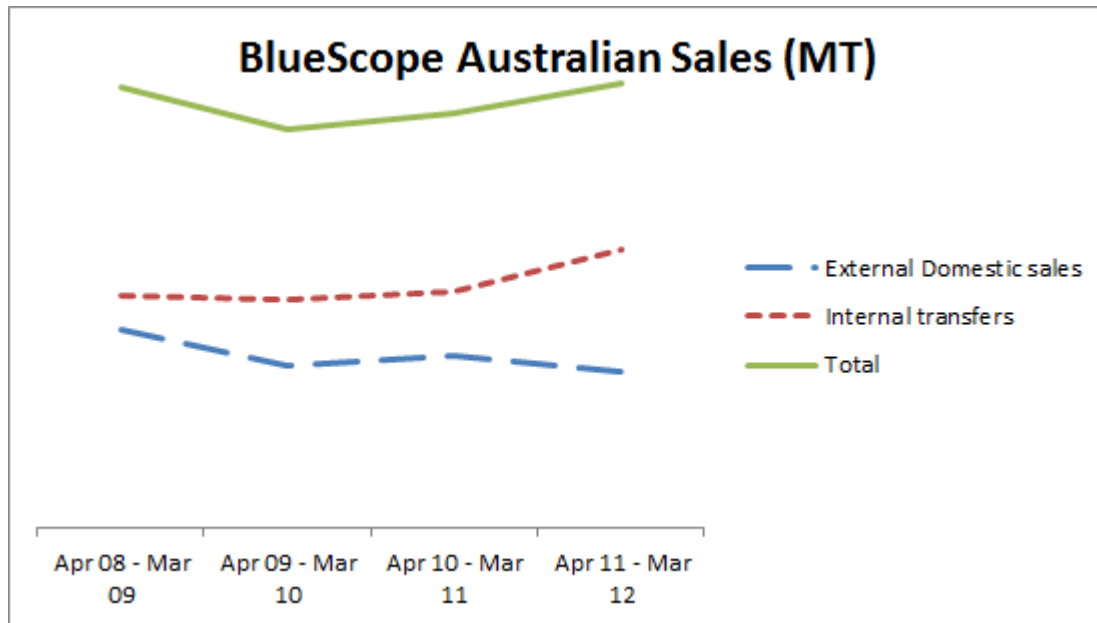
Customs and Border Protection examined the verified cost and sales data provided by BlueScope, to assess what injury BlueScope had suffered during the injury period and the investigation period.

The Australian Steel Association argued that any assessment of BlueScope's sales volumes should include sales into the Australian market by BlueScope's New Zealand based subsidiary, New Zealand Steel. Customs and Border Protection notes

PUBLIC RECORD

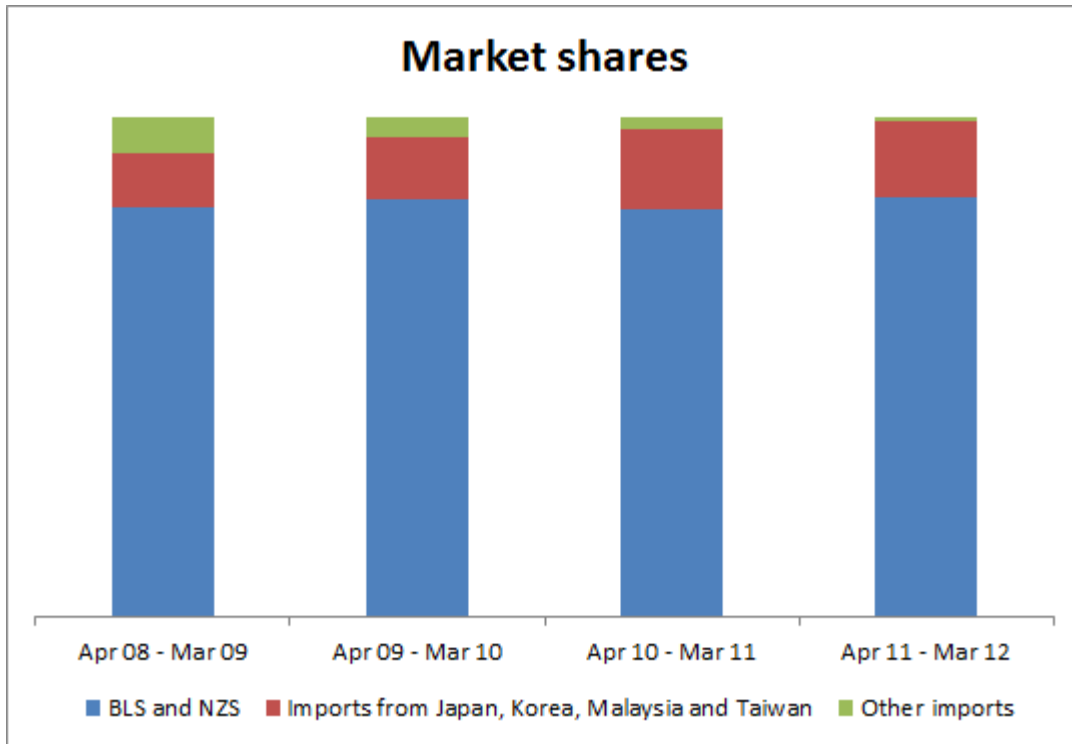
that New Zealand Steel is fully owned by BlueScope and therefore considers this data should also be included for assessments of sales volumes.

The chart below shows the changes in the BlueScope's sales volumes into the Australian market, including sales of imported HRC from New Zealand Steel from April 2008:

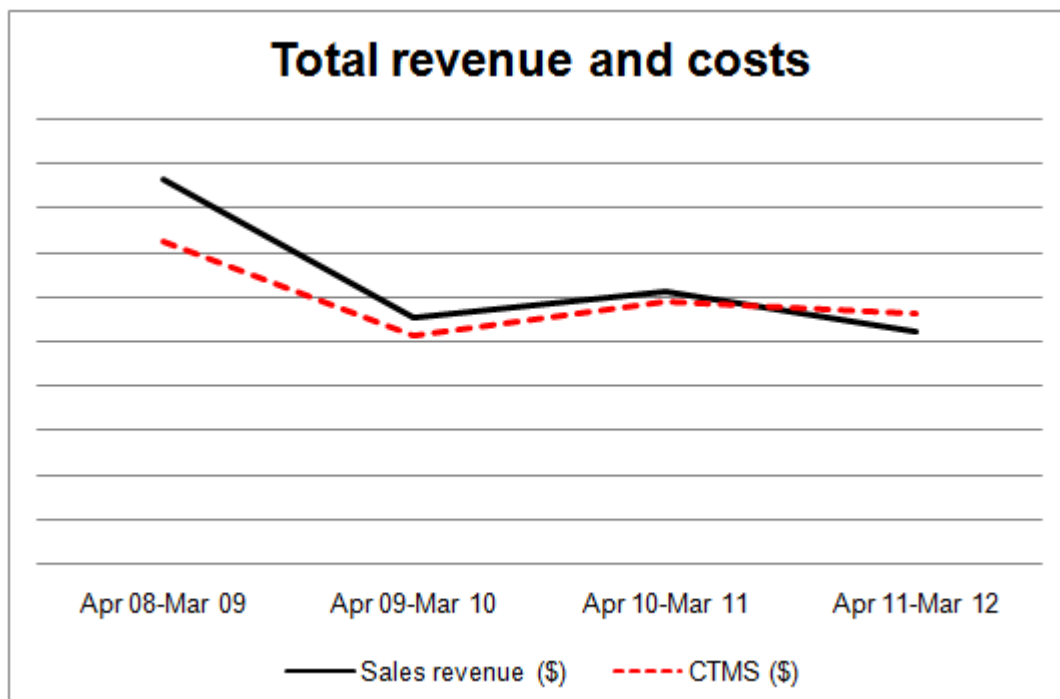


BlueScope's external sales volumes increased slightly in 2010/11 before declining in 2011/12. Over this period BlueScope's internal transfers have increased. The following chart shows BlueScope's Australian market share, including imports from New Zealand Steel, from April 2008. This market share assessment takes into account BlueScope's external sales and imports. This market share chart shows that despite the contraction in the market, BlueScope maintained a steady market share, with a slight increase in 2011/12, at the expense of imports from sources other than those named in the application. Exports from the nominated countries have also maintained a steady market share.

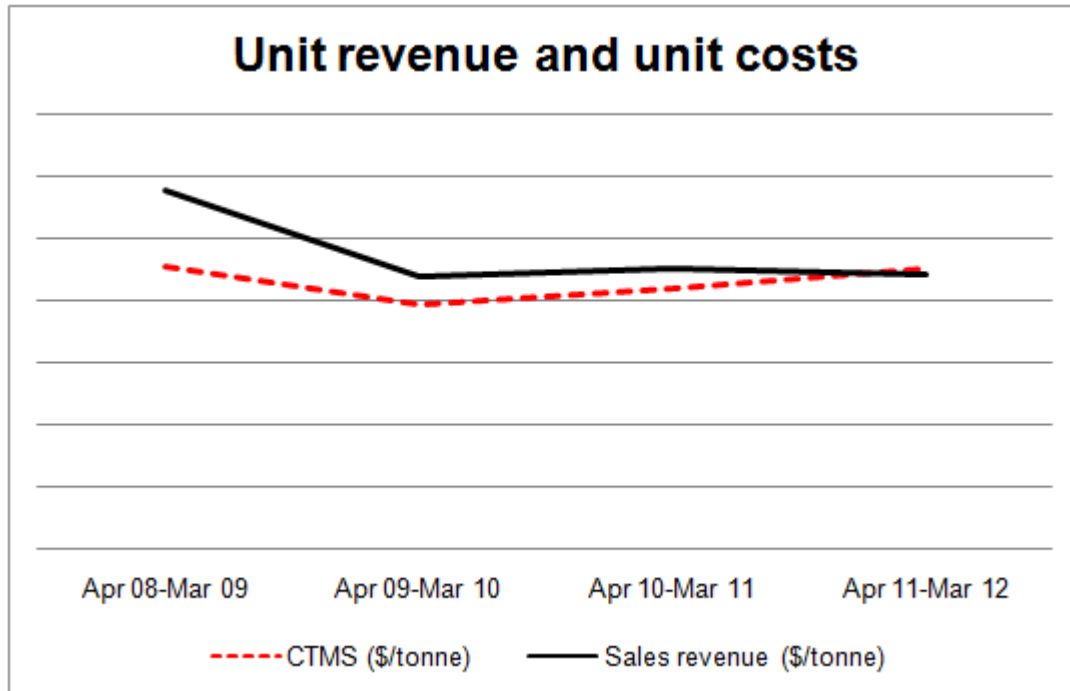
PUBLIC RECORD



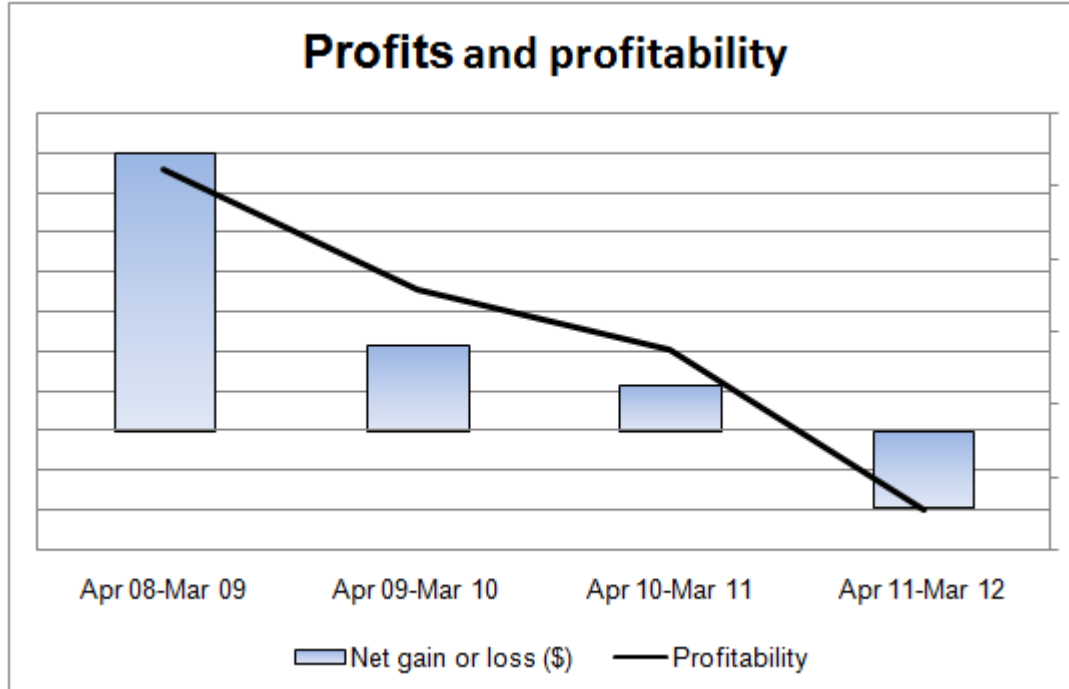
Nippon Steel, POSCO, CSC and Hyundai argue that BlueScope has not suffered injury as its market share has not declined. However, BlueScope argues that it has maintained its market share by lowering its prices, resulting in price suppression and depression. The following graphs show BlueScope’s movements in total costs and revenue and unit costs and revenue for external sales of HRC produced in Australia. From 2010/11 to 2011/12, BlueScope’s unit costs increased by 8% while its unit revenue decreased by 2%.



PUBLIC RECORD



This shows that BlueScope's profit margins have been eroded over the period and, on average, BlueScope's costs were above the unit revenue in the investigation period. The chart below shows BlueScope's profits and profitability for external sales of HRC produced in Australia:



As reflected in the revenue and cost charts above, BlueScope's profits have fallen over the injury period and BlueScope made a loss on its HRC sales into the Australian market in 2011/12.

BlueScope also argued that it has suffered injury in the form of:

PUBLIC RECORD

- reduced employment,
- reduced wages expenses; and
- reduced return on investment.

During this period it can be seen that BlueScope reduced employment and accordingly reduced its wages expenses. BlueScope's EBIT decreased and it reduced its total assets which resulted in a reduced return on investment.

Interested parties, such as GM Holden and Hyundai, argue that injury incurred in a 12 month investigation period is an unreliable basis to draw any conclusions regarding injury. However, Customs and Border Protection is required to nominate an investigation period, generally covering a 12 month period, in which to assess dumping and the effect of dumping on the Australian industry. To assist in identifying if dumping is the cause of injury in the investigation period, Customs and Border Protection also examines the industry's economic performance over a longer period, being the injury period.

8.4.3 Price undercutting

Customs and Border Protection sought sales data from importers and the Australian industry as part of the investigation. Using this sales data, a price undercutting assessment was carried out for each market segment. The following general parameters framed the comparison:

- The import prices used were provided by importers visited by Customs and Border Protection. These imports represented over 90% of imports from the nominated countries during the investigation period.
- The point of price comparison was either the sales prices from the exporter to the importer, or the sales price from the importer to the Australian customer, according to which best matched the level of trade from BlueScope. For example, some of BlueScope's customers may purchase HRC directly from overseas mills and some may purchase HRC from importers. In the cases where customers purchased HRC from directly from the exporter, the price comparison used the price from the exporter to the customer. Where a customer purchased from an importer, the price comparison used the price from the importer to the customer.
- Because BlueScope's sales were all free-into-store (FIS) the price comparison was done on the basis of FIS. Where the price used was the price from the exporter to the importer, ocean freight, marine insurance, port charges, import duty and local freight were added to the price as necessary to determine an FIS price.
- To account for different credit terms, all prices were adjusted to reflect a cash price. To make this adjustment, the credit terms of each sale was taken into account and as well the average of the published Reserve Bank of Australia interest rates for large and small businesses over the period which was 7.43%p.a.

When examined on a product level, ie, the price of all imported HRC compared to all locally produced HRC, imports were priced 3% above industry's prices.

PUBLIC RECORD

A price undercutting assessment was also carried out on the basis of finish. The price of imported HRC was compared to locally produced HRC taking into account whether the finish was pickled and oiled, or dry. This price undercutting assessment showed that imports undercut BlueScope's prices by approximately 8% for pickled and oiled HRC but were 2% above industry's prices for dry HRC. These general assessments, however, mask the product mixes and different market segments in which HRC is sold. Therefore, more detailed price undercutting was carried out as discussed in the micro analysis from section 8.5.

8.4.4 Macro analysis – conclusion

The injury shown above is considered to be material. While BlueScope's sales volume and corresponding market share has grown over the injury analysis period this has come at the expense of reduced prices. The company's inability to increase prices, as it competed with imports with dumping margins between 3.3% and 15.45%, at a time of an increasing cost base, resulted in significant losses during the 2011-12 investigation period.

Taken as a whole, the above correlations suggest connections at the macro level between dumped imports and the eroded and suppressed prices in the Australian market over the investigation period. However, by themselves, they are not conclusive and may be the result of other factors. What needs to be determined is whether these general correlations are supported by more specific evidence in relation to certain market sectors. This is examined in greater detail below.

8.5 Micro analysis - Pipe and tube sector

8.5.1 BlueScope's claims

BlueScope argues that in the pipe and tube sector, imports have undercut its prices and it was forced to lower prices in order to maintain market share and sales volume. It considered that significant undercutting has occurred in this sector. For example, in the July to December 2011 period, it considered that import offers of Japanese HRC at the FIS level were approximately US\$150/mt below its benchmark prices. As BlueScope set its prices according to import parity prices, it was forced to lower its prices to remain competitive.

BlueScope argues that lower prices as a result of competition with dumped imports have led to lower margins between costs and revenue and resulted in lost profit and profitability. BlueScope explained that it had a variety of market offers in place at any given time with its Pipe and Tube market customers. During the period of investigation, the key offers included the TUBEFORM® product offer; the Small and Medium Range product offer; and the PIPESTEEL® product offer.

8.5.2 Claims by other interested parties

Orrcon, a customer in the pipe and tube sector, argued that the price of its purchases of imported HRC was above BlueScope's net price for HRC. It argued that it only purchases a small volume of its HRC requirements from Korea at prices

PUBLIC RECORD

above BlueScope's net selling price, in order to maintain a second source of supply for contingency purposes.

When purchasing HRC from BlueScope, Orrcon argued that BlueScope determines the price and uses a pricing formula, based on an import parity model, using publicly available data regarding the price of actual sales of HRC in the Asian region.

OneSteel ATM, another pipe and tube customer, also argued that it purchased a significant volume of its HRC requirements from BlueScope but that it purchased imported HRC to maintain a secondary source of supply. It considers this to be particularly important as BlueScope now only operates one blast furnace. It argued that the imported HRC purchased has been at or above the international benchmark price and therefore should not cause injury to BlueScope. OneSteel ATM also argues that BlueScope has secured its targeted proportion of OneSteel ATM's purchases every year during the injury period.

The Australian Steel Association, OneSteel ATM, JFE Steel, Kobe Steel and Nisshin Steel argue that in the pipe and tube sector, BlueScope has been impacted by the increase in imports of finished pipe and tube and the closure of several local production facilities which means that there is less demand for HRC as a manufacturing input.

8.5.3 Assessment of injury

The pipe and tube sector is the largest market sector. Customs and Border Protection examined BlueScope's sales volumes into the pipe and tube sector and found that the volume of HRC sold increased in 2009/10, declined in 2010/11, and then increased slightly in 2011/12. However, these changes in sales volume largely follow the contraction and growth of the entire market. An assessment of BlueScope's market share shows that it has remained relatively constant. Its share declined slightly in 2010/11 but increased again in 2011/12.

Customs and Border Protection has found that BlueScope's sales in the pipe and tube sector were unprofitable during the investigation period.

Customs and Border Protection has found that BlueScope's Small and Medium Range product offers were not based on HRC import parity pricing and therefore have no connection to import offers. To ensure that any injury resulting from BlueScope's Small and Medium Range product offers aren't incorrectly attributed to dumped imports, Customs and Border Protection has excluded sales made under the Small and Medium Range product offer in examining the profitability of sales made under the TUBEFORM® and PIPESTEEL® product offers. During the investigation period, sales made under the TUBEFORM® and PIPESTEEL® product offers were also found to be made at a loss.

Customs and Border Protection conducted a price undercutting assessment looking specifically at the pipe and tube market sector. An assessment was also carried out by customer. These assessments used the parameters set out in section 8.4.3 and compared the price of imports to the price of locally produced HRC sold under TUBEFORM® and PIPESTEEL® product offers.

PUBLIC RECORD

Customs and Border Protection found that over the investigation period, BlueScope's prices undercut imports of HRC in the pipe and tube sector by approximately 4%.

8.5.4 Customs and Border Protection's assessment

Customs and Border Protection has found that TUBEFORM® and PIPESTEEL® product offers are based on import parity prices while BlueScope's Small and Medium Range product offers were based on other factors. Therefore, the below assessment only relates to goods sold under TUBEFORM® and PIPESTEEL® product offers. HRC sold under these product offers constituted the majority of BlueScope's HRC sold in this sector.

During the investigation period, BlueScope claimed that quarterly prices for the pipe and tube market were established through negotiation. Prices were set for 3 month periods. In setting the price, BlueScope collected market intelligence to determine its view of a forward competitive market price taking into account the large volumes customers in this sector purchased. Customers also collected market intelligence regarding forward prices. BlueScope and its customers then negotiated the price for the three month period before arriving at an agreed price. BlueScope provided evidence to show that in the price negotiation process, the price of imports was used to leverage lower prices with BlueScope.

It was found that imports into the pipe and tube sector did not generally undercut BlueScope's selling price of TUBEFORM® and PIPESTEEL® offers, when both were compared on a FIS, cash basis. Customs and Border Protection is of the view that BlueScope's undercutting of into-store import prices suggests an overreaction to import offers and/or faulty market intelligence. Therefore, any injury suffered by BlueScope stemming from these factors cannot be attributed to dumped imports.

Customs and Border Protection has then examined whether, after isolating the effects of the factors mentioned above, dumped imports have contributed to BlueScope's prices being suppressed. BlueScope and interested parties have agreed that the local producer should be entitled to a local premium over imported products for the additional services and benefits they provide to customers. Given that BlueScope aims to achieve a price that reflects a margin above import parity prices, it is reasonable to expect that in a market unaffected by dumping, BlueScope would be entitled to expect as a minimum, a price equal to into-store import prices.

While end users in the pipe and tube sector only imported a small volume of their total HRC requirements from the countries under investigation and may have only imported this small volume to maintain a second source of supply, their on-going purchases of dumped imported HRC provided them with leverage when negotiating prices with BlueScope. BlueScope, accordingly, had to adjust its prices to be competitive with imports or risk losing sales volume.

An assessment of BlueScope's sales of TUBEFORM® and PIPESTEEL® HRC show that on average these sales were at a loss, which demonstrates that BlueScope was subject to severe price pressures in this sector.

PUBLIC RECORD

8.6 Micro analysis - Distribution and manufacturing sectors

Customs and Border Protection has found that most of the purchases of imported HRC for the manufacturing sector are from distributors who purchase imported HRC. The arguments put forward in this case by distributors and manufacturing customers are similar. Therefore, Customs and Border Protection has examined these two sectors together.

8.6.1 BlueScope's claims

In its application, BlueScope argued that it had suffered injury from dumped imports in the distribution and manufacturing sectors. It argues that dumped imports have undercut its prices by up to 20% and necessitated a reduction in its own prices through discounts. It provided copies of price offers for importers to support this claim as well as an example of a price negotiation with a customer in the manufacturing sector where the price of imports was used to negotiate a lower price. BlueScope claimed that to maintain its market share it has been required to reduce its prices to compete with dumped imports. BlueScope also asserts that its HRC is of equal quality to imported product. BlueScope's prices into these sectors were based on import parity prices.

8.6.2 Claims by other interested parties

Interested parties put forward the following claims regarding BlueScope's injury in the distribution and manufacturing sectors:

- BlueScope was uncompetitive because it did not have the economies of scale of overseas mills, its equipment was old and incurred higher fixed costs, and to pickle and oil coil the HRC had to be transferred to Western Port at additional extra cost.
- In 2008, during a period of high demand for steel globally, BlueScope allocated volume quotas to customers. As a result, customers were forced to seek and maintain secondary sources of supply.
- BlueScope could not provide all the grade, specification, width and thickness requirements required by the market and therefore customers needed to import some HRC. Specifically, during the investigation period when the Western Port strip mill was closed down, BlueScope's maximum width offered reduced from 1830mm to 1550mm. Therefore, any customers who previously purchased HRC from BlueScope with a width between 1550mm and 1830mm were required to make other arrangements.
- Customers who purchased HRC to manufacture other products were competing against low priced finished goods and this put price pressure on them which in turn prompted them to put price pressure on their suppliers.
- Distributors that are not BlueScope distributors cannot purchase product from BlueScope and are forced to buy imported HRC. HRC is an essential product for distributors to offer as part of their product range.

PUBLIC RECORD

- BlueScope also has downstream manufacturing businesses and, as a result, competes directly with manufacturers who purchase HRC. These companies therefore seek alternative and more competitive sources of HRC supply.
- An importer and subsidiary of BlueScope, New Zealand Steel, was the price setter in the distributor market and therefore it was these imports, rather than the imports from the nominated sources that were causing injury.
- Other import sources, particularly China, were the price setters in the market and imports from these countries caused injury.
- BlueScope was the price setter in the market and its drive to increase market share has resulted in price depression in the Australian market causing itself injury.

8.6.3 Assessment of injury

Customs and Border Protection examined BlueScope's sales volumes to the distribution sector, taking into account sales made by BlueScope's subsidiary, New Zealand Steel. BlueScope's sales volumes increased in 2009/10, decreased in 2010/11 and slightly increased again in 2011/12.

Customs and Border Protection conducted a price undercutting assessment looking specifically at the distribution market sector. These assessments used the parameters set out in section 8.4.3 and compared the price of imports to the price of locally produced HRC by finish and where possible, grade. This showed that imports undercut BlueScope's equivalent prices by approximately 11% over the investigation period.

Customs and Border Protection also examined costs and revenue on a unit level in the distribution market, which showed that BlueScope's sales were profitable over the investigation period.

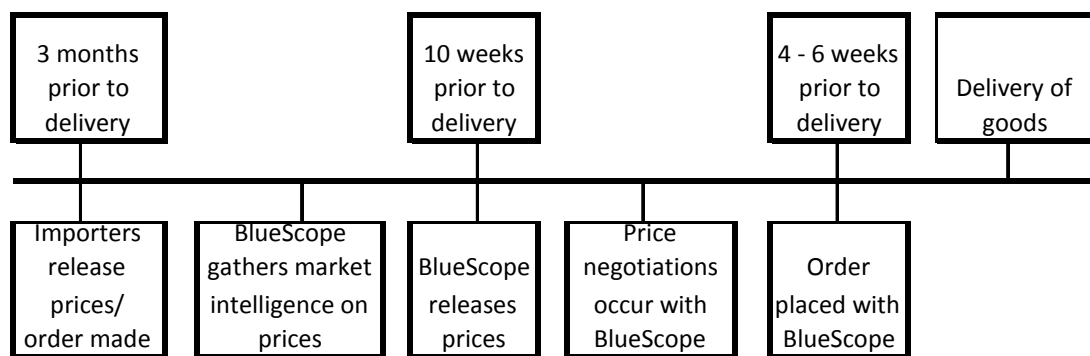
In the manufacturing sector, Customs and Border Protection found that BlueScope's sales volumes have remained constant.

An assessment of BlueScope's unit price and cost showed that in the investigation period, BlueScope's sales to the manufacturing sector were profitable.

8.6.4 Customs and Border Protection's assessment

BlueScope has demonstrated that its prices in the distribution and manufacturing sectors are based on import parity prices. BlueScope sets its prices after it has gathered market intelligence on the current import offers in the market. These import offers are used to create a benchmark price, on which it bases its own pricing. This pricing process is shown in the chart below:

PUBLIC RECORD



The imports against which BlueScope set its prices during the investigation period have been found to be dumped, and as a result, BlueScope was required to set lower prices than it would have otherwise or risk losing market share.

While price pressure has been put on manufacturers due to competition from imports of finished goods, Customs and Border Protection has found that the price of imported finished products was not the basis of BlueScope's pricing decisions. Rather BlueScope sets its price in this market sector by taking into account the import price of HRC.

Customs and Border Protection examined sales in the Australian market from BlueScope's subsidiary in New Zealand, New Zealand Steel, in order to investigate claims that this company was the price setter in the market. Prices from New Zealand Steel were found to be above the price of imported HRC from the nominated countries into the distributor market. Therefore, no basis has been found for the claim that New Zealand Steel is the cause of the low market prices.

While it has been claimed by Hyundai and POSCO that China is a price setter in the market, no importers have suggested this to be the case and no evidence has been found to support this claim.

Customs and Border Protection found that there are a range of reasons other than simply price that some customers may purchase imported HRC, including:

- BlueScope's inability to supply HRC to the specifications they require, be it grade, width, thickness or quality;
- the inability to source HRC from BlueScope because only certain distributors are approved to be BlueScope distributors;
- to ensure security of supply by having more than one source for HRC; and
- to have an source of HRC other than BlueScope as the company may be competing with BlueScope in the downstream manufacturing market.

PUBLIC RECORD

Customs and Border Protection has found that purchases of dumped HRC for these reasons contribute to the low priced imports that BlueScope benchmarks against. Nonetheless, where customers consider that BlueScope is unable to supply them with HRC to specifications they require, Customs and Border Protection invites parties to provide evidence that ground exist to have certain goods excluded from the measures. Please refer to section 4.4.5 for further information.

Customs and Border Protection considers that dumped imports directly led to BlueScope's prices being suppressed. Given BlueScope's approach to setting an import parity price plus a premium above imports, it is reasonable to expect that but for the dumped imports, BlueScope's prices would have been higher by at least the margin of dumping. Therefore, Customs and Border Protection considers that industry has suffered injury in the distribution and manufacturing sectors as a result of dumped imports.

8.7 Micro analysis - Automotive sector

8.7.1 Claims by interested parties

Interested parties including Ford, Toyota, Toyota Tsusho, Tokyo Boeki, GM Holden, POSCO, JFE Steel, Kobe Steel and Nisshin Steel argue that imports have not caused injury in the automotive sector.

Companies that operate in the automotive industry argue that the selection process for HRC suppliers is onerous. Contracts are based on specific car models which are generally in production for five years. Products for these models are stringently tested and required to meet the set criteria in terms of yield and tensile strength. When a product is chosen, the price is negotiated for the term of the contract. The procedure to change suppliers for a particular input is complicated and requires the same testing process to again be undertaken.

End users of HRC, such as Ford and Toyota Tsusho, argue that they need to import some HRC as BlueScope cannot supply all their requirements. While some BlueScope product is used, in some instances product cannot be supplied in the correct grade, specification, width or thickness. In some instance, there were also quality differences in terms of formability, rust staining and coil camber.

Parties in this sector argue that any drop in sales volumes experienced by BlueScope is not due to competition from imports but rather a reduction in the production of cars in Australia. They argue that this has affected all suppliers.

8.7.2 Assessment of injury

Customs and Border Protection examined BlueScope's sales to the automotive industry and has found that BlueScope's sales volumes into this sector have declined since 2009/10.

Customs and Border Protection conducted a price undercutting assessment looking specifically at the automotive market sector. These assessments used the parameters set out in section 8.4.3 and compared the price of imports to the price of

PUBLIC RECORD

locally produced HRC by finish and where possible, grade. Due to the limited number of like grades sold by the Australian industry and importers, assessment on the basis of grade was limited. However, the assessment showed that imported HRC into this market segment undercut BlueScope's prices by 8%.

An assessment of unit cost and revenue in this sector showed that in the investigation period BlueScope's sales to this sector were profitable.

8.7.1 Customs and Border Protection's assessment

BlueScope has not stated that it has suffered injury in the automotive sector or provided any evidence to suggest this is the case, either in the application or in any subsequent submission to the case. Rather, BlueScope has answered arguments put forward by parties in the automotive sector by referring to the injury it has suffered across all sectors. Customs and Border Protection has examined sales data in the automotive sector and found that BlueScope's sales were profitable. Furthermore, as sales in this industry are based on long term contract and price arrangements, BlueScope's claims to have suffered injury from 2010-11 due to dumped imports would appear to exclude this sector.

Customs and Border Protection is of the view that some HRC required for the automotive sector requires certain characteristics and specifications that BlueScope, or indeed any one producer alone, cannot supply in its entirety.

While BlueScope's sales to this sector have decreased over the injury period, it can also be seen that the volume of cars manufactured in Australia have declined and that this decline has affected all suppliers into this market. Consequently, Customs and Border Protection's preliminary view is that BlueScope has not suffered injury in the automotive sector due to dumped imports. What injury BlueScope may have suffered is due to the contraction of the automotive market.

In making this preliminary finding, Customs and Border Protection does not have the authority within the legislation to recommend the termination of the case in respect of individual suppliers to the automotive industry. Within the terms of the legislation⁸, the CEO can only terminate an investigation on the basis of negligible injury in regards to 'a particular country of export'. Customs and Border Protection has found that countries that sell HRC to the automotive sector also sell HRC to other market sectors.

8.8 Micro analysis - Manufacturing sector and exports from Malaysia

8.8.1 BlueScope's claims

BlueScope claimed that imports from Malaysia were particularly targeted at the mining sector, specifically to manufacturers who produced rock bolts. BlueScope

⁸ S. 269TDA(13)

PUBLIC RECORD

stated that rock bolt manufacture was a growing market segment and that imports from Malaysia were undercutting its prices into this sector and limiting its ability to benefit from the growing market.

8.8.2 Assessment of injury

Customs and Border Protection identified one customer who purchased both imported HRC from Malaysia and HRC from BlueScope. Customs and Border Protection conducted a price undercutting assessment for this customer and found that dumped HRC from Malaysia undercut BlueScope's prices by 4% during the investigation period.

BlueScope's prices into the sector were profitable.

8.8.3 Customs and Border Protection's assessment

Customs and Border Protection is of the view that the magnitude of the dumping margin has allowed imported HRC from Malaysia to undercut the Australian industry's prices, resulting in injury to the industry. The materiality of injury due to dumped imports will be considered below.

8.9 Other causes of injury

Interested parties have argued that injury was not caused by dumped imports but rather other significant factors at play both in the Australian and international steel market. These include the high Australian dollar, increased raw material costs, weak demand resulting in low steel prices and management decisions made by BlueScope, including the decision to restructure the company. The following section examines what effect this had on the Australian industry.

8.10 Impact of currency fluctuations

Several interested parties argue that the increased value of the Australian dollar has made imports less expensive and this has impacted BlueScope's ability to recover its costs and detracted from its profitability. They argue it was this, rather than dumped imports that have caused injury to the Australian industry.

It is reasonable to expect that the increased value of the Australian dollar has contributed to cheaper into-store Australia dollar import prices (all other factors being equal). However, given the basis on which BlueScope establishes its selling prices into the market, the strength of the Australian dollar does not weaken the assessment that BlueScope's prices are lower than what they otherwise would have been had HRC not been exported at dumped prices.

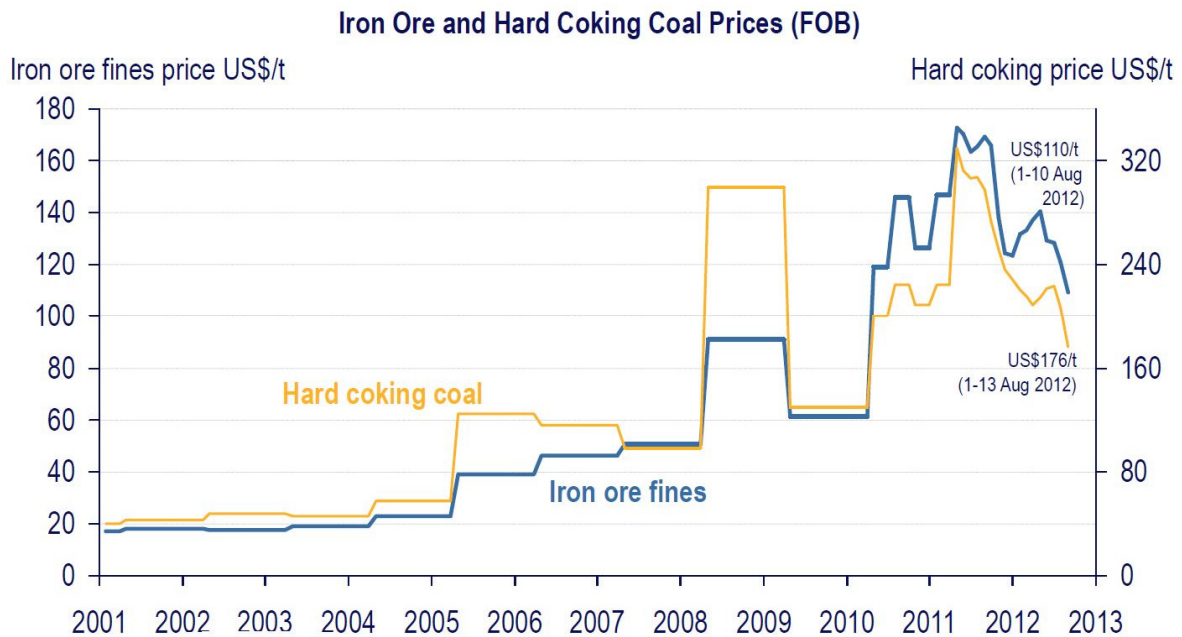
8.11 Increased raw material costs

Several interested parties have also argued that BlueScope has been injured by increased raw material prices rather than competition of dumped imports. These parties point to claims to this effect publicly made by BlueScope.

PUBLIC RECORD

Paul O'Malley, BlueScope's Managing Director and CEO commented on the rising costs at BlueScope's 2011 AGM and stated that *'on the cost side, iron ore fines were up nearly 40% during FY2011 relative to FY2010 and hard coking coal was up nearly 70%'*⁹,

To demonstrate the effects of changes in raw material prices, BlueScope included the following chart in its 2012 full year results presentation¹⁰. The figures included in this chart are based on indicative or benchmark pricing, rather than BlueScope's actual purchases.



This chart clearly shows an increase in raw material pricing in 2008 followed by a drop in 2009. In 2010 prices again increased and peaked in 2011. While prices did start to trend downwards from 2011, they remained relatively high compared to historic prices.

Customs and Border Protection asked BlueScope to provide information regarding its actual coal and iron ore costs. These were found to be similar to the costs shown in the above table. Accordingly, it can be seen that raw material prices were high in the investigation period.

It is reasonable to expect that the higher raw material prices during the investigation period would have contributed to BlueScope's weaker performance during that same period. Whilst BlueScope's costs may have been directly impacted by the higher raw

⁹ Paul O'Malley, BlueScope Managing Director and CEO, BlueScope AGM Update, ASX Media Release, 17 November 2011

¹⁰ FY2012 Financial Results Presentation, pg 31.

PUBLIC RECORD

material prices, Customs and Border Protection does not consider that this detracts from the assessment that dumped exports directly impacted on BlueScope's prices and revenue over the investigation period.

The impact of these high raw material prices are further discussed below.

8.12 Decrease in demand and low steel prices

As shown in chapter 5, the market for HRC in Australia has decreased over the injury period. The weaker demand for steel is not just confined to Australia but in the wake of the global financial crisis is being felt worldwide.

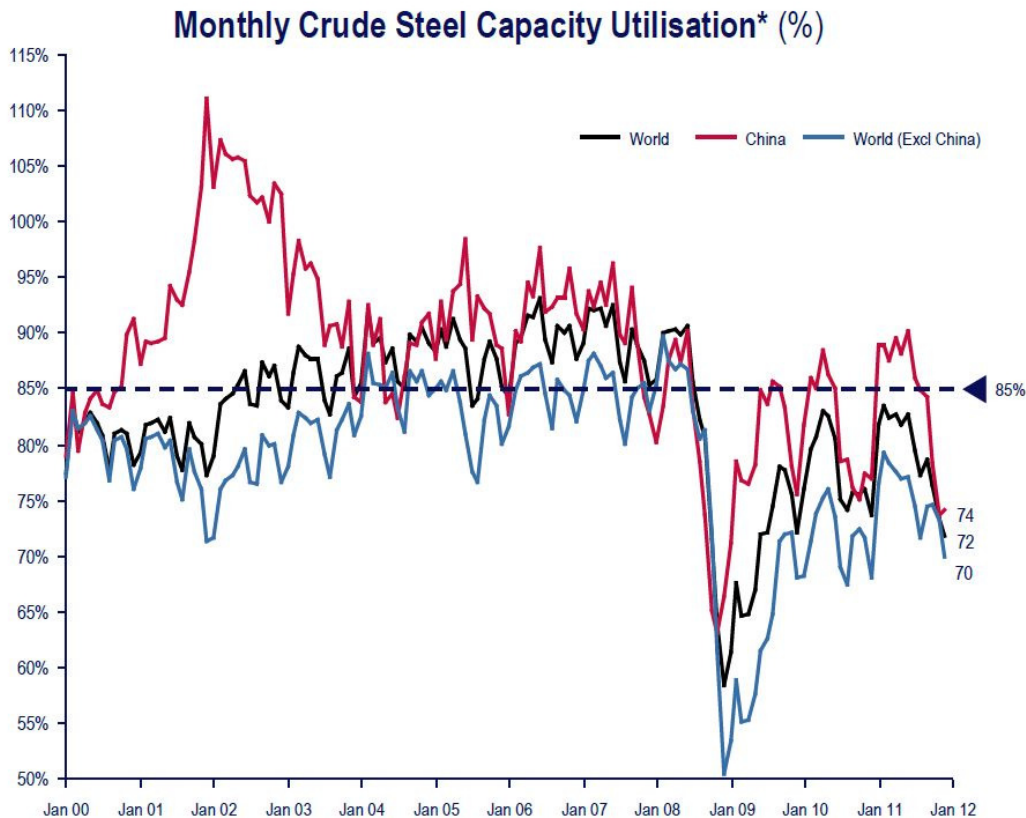
BlueScope has attributed some of the loss it made in 2011 to the weakened demand for steel. The global level of demand for steel can be demonstrated by measuring how much crude steel production capacity is being used. According to BlueScope, when global capacity usage is below 85%, demand is weak and prices are low. However, 85% capacity usage is a critical point at which pricing power may switch towards the steelmaker¹¹. At the start of 2012 global capacity was at 74%, resulting in low margins on steel.

BlueScope published the following chart in its FY2012 half year results to demonstrate movement in global steel capacity¹²:

¹¹ First half FY2012 Financial Results Presentation, pg 8.

¹² First half FY2012 Financial Results Presentation, pg 8.

PUBLIC RECORD



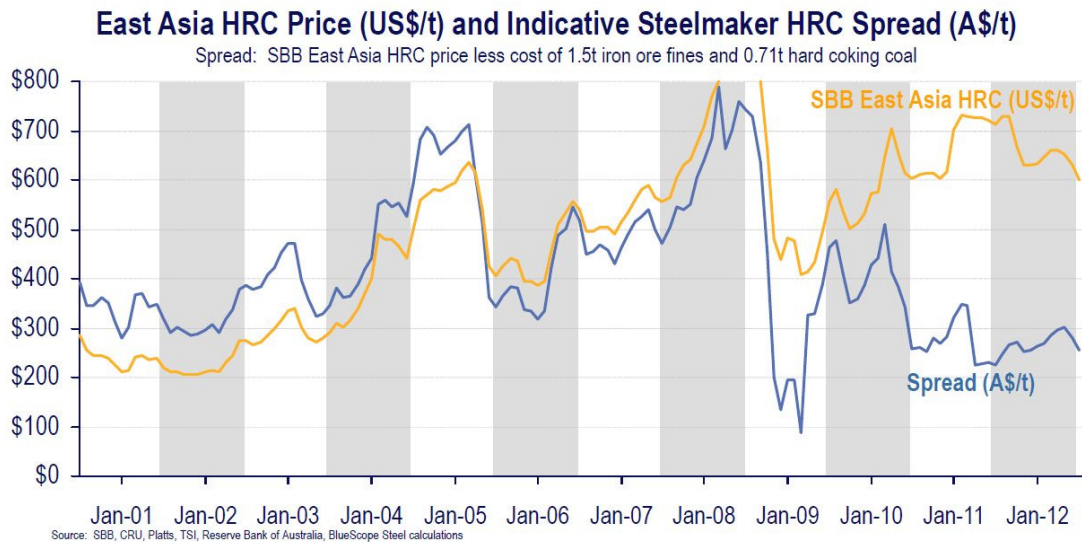
The resulting low steel prices due to low demand, coupled with the higher raw material prices resulted in a decreased spread (the spread being the difference between the raw material costs and price). This depression on prices, coupled with the high input costs, resulted in the raw material costs per tonne of steel increasing from approximately 30% of cost to 70% of total cost¹³.

BlueScope provided the following chart in its FY2012 results presentation, showing the East Asia price for HRC and the value of the spread over time¹⁴:

¹³ Graham Kraehe, BlueScope Chairman, Chairman's Address 2011 AGM

¹⁴ FY2012 Financial Results Presentation, pg 32.

PUBLIC RECORD



	FY2010	FY2011	1H FY11	2H FY11	1H FY12	2H FY12
Indicative steelmaker HRC spread (US\$/t)	365	271	252	291	260	291
Indicative steelmaker HRC spread (A\$/t)	414	275	266	283	253	282
A\$ / US\$ FX	0.88	0.99	0.95	1.03	1.03	1.03

BlueScope stated in this presentation that the spread was at a historic low. In addition, as the spread is internationally quantified in USD, the stronger Australian dollar also detracts from BlueScope's profits.

It is important to note, however, that the charts shown above refer to East Asian and/or global market conditions. They were included in BlueScope's presentations in part to provide explanation regarding the profits and losses made in BlueScope's export business. Indeed, the low spread evident in the East Asian market prompted BlueScope to withdraw from this market and exit the export business, as discussed below. The question relevant to this investigation is how these conditions have impacted the Australian domestic HRC market.

An assessment of BlueScope's spread, ie, unit revenue minus unit iron and coal costs, over the period of April 2010 to March 2011 shows that the spread achieved by BlueScope is well in excess of East Asian spread rates. The Australian market is higher priced, as ocean freight and importation costs add to the Asian prices should a customer seek to purchase from this region.

Nonetheless, the Australian industry must compete with imports that are affected by internationally depressed steel prices and as the Australian industry bases its prices on import parity prices, global steel prices undoubtedly influence the Australian market. Given these global conditions, Nippon Steel argues that BlueScope can't assume that it will always achieve a static ratio between costs and revenue. POSCO and Hyundai also state that given these conditions, BlueScope should not assume that it would be able to recover costs and operate at a profit. BlueScope, however,

PUBLIC RECORD

argues that these circumstances make it more susceptible to the effects of dumped imports and that dumped imports have contributed to the suppression of its prices.

Customs and Border Protection has found that BlueScope does set its prices according to import parity pricing. Therefore while steel prices have been depressed globally, the presence of dumped imports in the market has further suppressed BlueScope's prices and made it unable to increase its prices to the extent it would have when competing with undumped prices. This has particularly impacted BlueScope due to the high raw material prices.

8.13 Management decisions and closure of BlueScope's HRC export business

Due to a combination of the above factors, the high Australian dollar, high raw material prices and low steel prices, BlueScope announced its decision to exit the export market in August 2011 and restructure its Australian business¹⁵.

In the light of these changes to BlueScope's business, Customs and Border Protection has assessed BlueScope's arguments that it has suffered injury as a result of dumping in the form of reduced employment, reduced wages expenses and reduced return on investment. It is evident from the charts shown earlier that BlueScope has not suffered volume or market share injury in the investigation period. However, due to the impact of BlueScope's decision to close its export business, it is inconclusive whether employment, wages and return on investment have been impacted by dumped exports into the Australian market.

Interested parties argue that the restructure has affected BlueScope as it incurred significant costs and BlueScope's resulting lower output of steel has resulted in higher overheads. Accordingly, OneSteel ATM argues that BlueScope's margins should be assessed as the difference between its raw material costs (as opposed to its cost to make and sell) and selling prices.

When Customs and Border Protection assessed BlueScope's costs during the investigation, it sought to remove the costs of the restructure. These costs included:

- the cost to shut down and make safe No. 5 blast furnace;
- the cost to break contracts, particularly for the supply of raw materials; and
- redundancy costs.

After doing this, it was found that costs at the end of the investigation period were noticeably higher, despite a reduction in raw material input costs. Customs and Border Protection concludes that this is a result of higher overhead costs due to

¹⁵ BlueScope Announced Major Restructure to Australian Operations and Reinforces Commitment to Steel Production in Australia, ASX Media Release, 22 August 2011

PUBLIC RECORD

decreased production volumes. However, when assessed over the course of the investigation period, the effect this has on costs is minimal.

8.14 Dumping investigations by other administrations

There have been no previous investigations into HRC by Australian anti-dumping authorities. However, HRC in varying forms has been the subject of anti-dumping investigations in other jurisdictions. Japan, Korea, Malaysia and Taiwan have each been subject to anti-dumping investigations administered by one or more of the following administrations, including Canada, the European Communities, Indonesia, Pakistan, Thailand and the United States. Measures have been imposed against each nominated country and territory as a result of some of these investigations. Customs and Border Protection also notes the on-going anti-dumping investigation being undertaken by Malaysia in respect of importations of HRC from Taiwan.

The number of investigations into HRC shows the propensity for manufacturers of these products to engage in dumping..

8.15 Injury to the Australian industry caused by dumping

An assessment of injury to the Australian industry on the macro level shows that during the investigation period BlueScope suffered material injury as it maintained market share at the expense of reduced prices, as it competed with dumped imports. This resulted in lost revenue, profits and profitability.

To examine whether these general correlations are supported by more specific evidence, an assessment was performed at the micro level by examining sales and conditions across different market sectors. This shows that BlueScope suffered injury as a result of dumping in the pipe and tube, distribution and manufacturing sectors.

BlueScope has also faced adverse conditions in both the Australian and global steel markets due to the high Australian dollar, high raw material costs, low demand for steel and the closure of BlueScope's export business, all of which have put price pressure on BlueScope. The Minister has directed¹⁶ that, while dumping need not be the sole cause of injury in order to impose measures, injury caused by other factors must not be attributed to dumping.

In order to differentiate the effects of dumping from the effects of other factors, Customs and Border Protection has examined what effect dumping has specifically had on price. Customs and Border Protection has found that BlueScope sets its price using a benchmark based on import parity prices plus a margin to reflect a premium for sourcing from a local producer.

¹⁶ Ministerial Direction on Material Injury 2012, 27 April 2012

PUBLIC RECORD

In the investigation period, this benchmark was based on dumped prices, which accordingly lowered the level at which industry could set its prices. Given this method of pricing, Customs and Border Protection considers that the minimum amount of injury suffered by BlueScope that can directly be attributed to dumped exports is reflective of the individual dumping margins. For example, but for HRC being exported at dumping margins of 5%, BlueScope could have reasonably expected to achieve 5% higher prices.

Any price reductions and/or profit reductions or losses that have occurred in excess of those attributed to dumping are considered to have been the result of factors other than dumping.

Customs and Border Protection has calculated the cumulative impact that dumped exports had on BlueScope's prices and lost revenue over the investigation period. Injury that can be attributed to dumping amounted to approximately 5% of BlueScope's total HRC revenue for external sales. Therefore Customs and Border Protection considers that the injury caused by dumping is material.

PUBLIC RECORD**9 WILL DUMPING AND MATERIAL INJURY CONTINUE****9.1 Preliminary findings**

Customs and Border Protection makes a preliminary finding that exports of HRC from Japan, Korea, Malaysia and Taiwan in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

9.2 Introduction

When the Minister is satisfied that material injury to an Australian industry has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Minister is satisfied that the dumping and material injury may continue.

9.3 Customs and Border Protection's assessment**9.3.1 Will dumping continue?**

Customs and Border Protection's dumping analysis found that HRC exported from the nominated countries during the investigation period was found to be at dumped prices, with dumping margins between 3.5%- 15.45%.

Customs and Border Protection notes that forward orders exist for exports from the nominated countries, that the HRC exported from these countries have a significant share and influence in the Australian market.

Customs and Border Protection considers that dumping will continue if anti-dumping measures are not imposed.

9.3.2 Will material injury continue?

Customs and Border Protection has reviewed the Australian industry's performance over the injury analysis period and has made a preliminary finding that HRC exported at dumped prices from Japan, Korea, Malaysia and Taiwan have caused material injury to the Australian industry.

Customs and Border Protection considers that the continuation of price competition from dumped imports from these countries is likely to have a continuing adverse impact on the Australian industry. Customs and Border Protection considers that this impact may be particularly evident in price depression and price suppression, reduced profits and profitability, and reduced revenues.

Based on the available evidence, Customs and Border Protection makes a preliminary finding that exports of HRC from Japan, Korea, Malaysia and Taiwan in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

PUBLIC RECORD

10 NON INJURIOUS PRICE

10.1 Preliminary findings

Customs and Border Protection makes a preliminary finding that the non-injurious price can be established by reference to a constructed selling price which reflects an undumped import parity price..

10.2 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury. This lesser duty provision is contained in the World Trade Organisation Anti-Dumping Agreement and the Tariff Act.¹⁷

The calculation of the non-injurious provides the mechanism whereby this lesser duty provision is given effect. The non-injurious is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping¹⁸.

Anti-dumping duties are based on FOB prices in the country of export. Therefore a non-injurious is calculated in FOB terms for the country of export.

10.3 Unsuppressed selling price

Customs and Border Protection generally derives the non-injurious price by first establishing a price at which the local industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price.

Customs and Border Protection's preferred approach to establishing an unsuppressed selling price observes the following hierarchy:

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

Having calculated the unsuppressed selling price, Customs and Border Protection then calculates a non-injurious price by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level

¹⁷ Subsection 8(5A) of the Tariff Act

¹⁸ The non injurious price is defined in section 269TACA

PUBLIC RECORD

of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

10.4 Australian industry

BlueScope has submitted that selling prices are unsuitable as the basis for the USP as the injury caused by dumping commenced during the year 2011 and BlueScope's selling prices in 2009/10 were impacted by the global financial crisis. BlueScope also does not consider that imports from other countries are of a sufficient volume to influence selling prices for HRC on the Australian market and to therefore be the basis of the USP.

BlueScope therefore submits that the most appropriate method for determining a USP is to construct industry prices on the basis of BlueScope's CTMS during the investigation period plus profit. BlueScope considers that the amount for profit should be the weighted average profit achieved in the 2008/09 and 2009/10 financial years.

BlueScope included in its confidential submission a proposed USP for 2011/12 on the basis of the formula outlined above.

10.5 Submissions from interested parties

OneSteel Australian Tube Mills Pty Ltd (OneSteel ATM) submitted a different methodology for determining USP, based on benchmarked steel prices with adjustments to convert the benchmarked prices into a landed FIS price comparable with BlueScope prices.

OneSteel ATM consider the appropriate price for benchmarking to be the East Asia price in USD/MT. This would then be adjusted for importation expenses.

OneSteel ATM considers this to be the most appropriate method for calculating the USP as it reflects BlueScope's current pricing strategy, is transparent and responsive to shifts in market dynamics and is unaffected by the changes in BlueScope's operations.

OneSteel ATM included in its confidential submission a proposed USP for 2011/12 on the basis of the formula outlined above.

10.6 Customs and Border Protection's assessment

Customs and Border Protection does not consider that industry selling prices are suitable to be used as a basis for a USP for the following reasons:

- BlueScope's prices during the financial years 2010/11 and 2011/12 have been affected by dumping;
- it is generally accepted that industry prices for 2009/10 were affected by the global financial downturn. Customs and Border Protection does not consider that prices in this period are reflective of that in the current market; and
- it is generally accepted that industry prices in 2006 to 2008/09 were affected by an unprecedented boom in the manufacturing sector. Customs and Border

PUBLIC RECORD

Protection does not consider that prices in this period are reflective of that in the current market.

Customs and Border Protection does not consider that prices from other countries in the Australian market are a suitable basis for a USP as it cannot determine whether those countries are also impacted by the dumped imports of the countries and territory under consideration. For this reason, Customs and Border Protection also does not consider it suitable to determine a USP on the basis of benchmarked East Asia prices.

Customs and Border Protection considers the most appropriate basis for estimating the USP is to construct a selling price that BlueScope could reasonably be expected to achieve in a market unaffected by dumping. BlueScope's methodology for constructing a USP is not considered reasonable given that it has no connection to the manner in which its prices are currently established. As highlighted throughout the material injury assessment, BlueScope's prices are based on an equivalent into-store import parity price plus a local premium to account for such factors as shorter lead times, delivery options and after-sales service and support.

Further, the approach submitted by BlueScope would also appear to compensate for more than just the effects of dumping. The weak demand and excess capacity of steel globally, the strong Australian dollar and the impact of BlueScope's restructured local business are all overlooked in its proposed USP.

Customs and Border Protection is of the view that in a market unaffected by dumping, it is reasonable to expect that BlueScope would be able to achieve as a minimum, selling prices that reflected undumped import parity pricing. In addition to this, an appropriate premium is warranted to reflect the benefits of sourcing from a local producer. BlueScope has provided Customs and Border Protection with information relating to the company's internal pricing policy which outlines the expected premium to be achieved (expressed as a percentage) above import parity. This information is considered reliable for the purposes of constructing a USP.

In the case of the automotive sector, Customs and Border Protection has preliminarily found that BlueScope's sales into that sector were not impacted by dumped exports. It is also noted that pickled and oiled exports of HRC from Japan went almost entirely to the automotive industry. Therefore, Customs and Border Protection considers it appropriate to calculate a USP for pickled and oiled HRC exports from Japan using actual export prices adjusted to reflect into-store prices plus a reasonable premium.

The non-injurious price (NIP) has been calculated by deducting from the USP amounts for into-store costs, overseas freight and marine insurance as verified from the importers visited in the investigation period.

Customs and Border Protection compared NIPs calculated for pickled and oiled exports from Japan to corresponding normal values over the investigation period and found that the NIP was equal to determined export prices. This results in a floor price equal to the export price.

PUBLIC RECORD

For all other exports from the nominated countries, the lesser duty rule does not come into effect.

USP and NIP calculations are at **Confidential Appendix 1**.

PUBLIC RECORD

11 PROPOSED MEASURES

Customs and Border Protection proposes to recommend to the Minister that a dumping duty notice be published in respect of HRC exported to Australia by all exporters from Japan, Korea, Taiwan and Malaysia.

The lesser duty rule can only reduce the amount of interim dumping duty where the NIP is lower than the ascertained normal value, (the export price plus the dumping margin).

Customs and Border Protection found that the NIP is lower than the normal value for pickled and oil HRC exported from Japan. Therefore, the NIP is the operative measure for these goods. In these instances the NIP has been found to equal the export price.

For all other goods and nominated countries, the NIP exceeded the export price by more than the calculated dumping margin. This means that the lesser duty rule does not come into effect and the proposed measures are linked to the full margin of dumping.

PUBLIC RECORD

12 PRELIMINARY AFFIRMATIVE DETERMINATION

Customs and Border Protection, having made the preliminary finding that the HRC exported from Japan, Korea, Malaysia and Taiwan was exported at dumped prices and that those exports have caused material injury, has considered whether it is necessary to make a preliminary affirmative determination (PAD). A PAD allows Customs and Border Protection to put securities in place under section 42 of the Act, in order to prevent material injury to BlueScope occurring while the investigation continues.

Customs and Border Protection is of the preliminary view that imports of HRC from the nominated countries and territory have caused material injury to BlueScope. It is likely that importations of HRC will occur in the future. Therefore Customs and Border Protection is of the view that it is necessary to make a PAD under section 269TD and impose securities under section 42 of the Act, so as to ensure that the industry does not suffer further injury while this investigation is completed.

The PAD including the level of securities will be publicly notified by way of an Australian Customs Dumping Notice and also in *the Australian* newspaper on 5 October 2012. Securities will be collected from 5 October 2012. This SEF forms the report that sets out the reasons for the determination, including all the material findings of fact and law on which the determination is based.

Customs and Border Protection will base the amount of securities payable on the full margin of dumping, with the exception of pickled and oiled coil exported from Japan. That is, the security taken will be the difference between the normal value and the export price of the goods. For pickled and oiled coil exported from Japan, the amount of securities payable will be based on the NIP. The security taken will be the difference between the NIP and the export price of the goods. The effective rate of duties for all exporters is shown below:

Japan - Dry	7.5%
Japan – Pickled and oiled	0%
Korea – POSCO	6.0%
Korea – Hyundai Co., Ltd	4.5%
Korea – other exporters	11.8%
Malaysia – Megasteel Sdn. Bhd.	15.45%
Malaysia – other exporters	15.45%
Taiwan – China Steel Corporation	3.4%
Taiwan – Chung Hung Steel Corporation	8.5%
Taiwan – Shang Chen Steel Co, Ltd	3.3%
Taiwan – other exporters	8.5%

PUBLIC RECORD

The actual amount of the security is not published, as it is confidential. Particulars of the dumping margins and the method used to establish those margins will be included in the public notices. A copy of the notice of the delegate's determination under Section 269TD of the *Customs Act 1901* follows.

PUBLIC RECORD**Preliminary Affirmative Determination**

Hot rolled coil steel

Exported from Japan, the Republic of Korea, Malaysia and Taiwan

Preliminary Affirmative Determination and Imposition of Securities

Section 269TD of the *Customs Act 1901*

I, John Bracic, delegate of the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection), after having regard to:

- (i) an application made under s.269TB of the *Customs Act 1901* (the Act) by BlueScope Steel Limited and BlueScope Steel (AIS) Pty Ltd., the Australian industry producing like goods, in respect of the alleged dumping of hot rolled coil steel (HRC) exported to Australia from Japan, the Republic of Korea (Korea), Malaysia and Taiwan; and
- (ii) submissions received by Customs and Border Protection within 40 days after the initiation of the investigation concerning the publication of a dumping duty notice; and
- (iii) other matters that I considered relevant;

make a preliminary affirmative determination that there appears to be sufficient grounds for the publication of a dumping duty notice in relation to HRC exported to Australia from Japan, Korea, Malaysia and Taiwan.

Further, I am satisfied that it is necessary to require and take securities under s.42 of the Act, in respect of interim duty that may become payable, to prevent material injury to the Australian industry occurring while the investigation continues.

Dated this 3rd day of October 2012



John Bracic
Delegate of the Chief Executive Officer
Position Number: 652