



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

CUSTOMS ACT 1901 - PART XVB

INTERNATIONAL TRADE REMEDIES BRANCH

REPORT TO THE MINISTER NUMBER 188

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

19 November 2012

PUBLIC RECORD



Australian Government
Australian Customs and
Border Protection Service

Customs Act 1901 - Part XVB

Hot Rolled Coil Steel (HRC)

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

Findings in relation to an investigation into dumping

Notice pursuant to subsections 269TG(1) and 269TG(2) of the *Customs Act 1901*

The Australian Customs and Border Protection Service (Customs and Border Protection) has completed its investigation into the dumping of hot rolled coil steel (the goods), classified under sub-heading 7208.25.00 (statistical code 32), 7208.26.00 (statistical code 33), 7208.27.00 (statistical code 34), 7208.36.00 (statistical code 35), 7208.37.00 (statistical code 36), 7208.38.00 (statistical code 37), 7208.39.00 (statistical code 38), 7208.53.00 (statistical code 42), 7208.54.00 (statistical code 43), 7208.90.00 (statistical code 30), 7211.14.00 (statistical code 40) and 7211.19.00 (statistical code 41), in Schedule 3 to the *Customs Tariff Act 1995*, exported to Australia from Japan, the Republic of Korea (Korea), Malaysia and Taiwan.

In International Trade Remedies Report No. 188 (REP 188) Customs and Border Protection recommended the publication of a dumping duty notice in respect of the goods. REP 188 outlines the investigations carried out by Customs and Border Protection, a statement of the reasons for the recommendations contained in REP 188, material findings of fact or law on which Customs and Border Protection's recommendations were based and particulars of the evidence relied on to support the findings.

Particulars of the dumping margin established for the exporters and an explanation of the methods used to compare export prices and normal values to establish the dumping margin are set out in the following table:

Country	Exporter	Dumping Margin	Method to establish dumping margin
Japan	All exporters	7.5%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss 269TACB(2)(a) of the <i>Customs Act 1901</i>
Korea	POSCO	6.0%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss 269TACB(2)(a) of the <i>Customs Act 1901</i>
	Hyundai Co., Ltd	2.6%	
	All other exporters	11.8%	

PUBLIC RECORD

Malaysia	Megasteel Sdn. Bhd.	15.4%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss 269TACB(2)(a) of the <i>Customs Act 1901</i>
	All other exporters	15.4%	
Taiwan	China Steel Corporation	2.6%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss 269TACB(2)(a) of the <i>Customs Act 1901</i>
	Chung Hung Steel Corporation	6.5%	
	Shang Chen Steel Co, Ltd	4.1%	
	All other exporters	8.2%	

REP 188 should be read in conjunction with this notice and is available from the International Trade Remedies Branch, Canberra on telephone (02) 6245 5453. Reports are also available on the Customs and Border Protection internet site at www.customs.gov.au.

I, JASON CLARE, Minister for Home Affairs, have considered, and accepted, the recommendations of Customs and Border Protection, the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in REP 188.

I am satisfied, as to the goods that have been exported to Australia, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods might have been caused if the security had not been taken. Therefore under ss 269TG(1) of the *Customs Act 1901* (the Act), I **DECLARE** that section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) applies to:

- the goods; and
- like goods that were exported to Australia after 5 October 2012, the date on which the Chief Executive Officer made a preliminary affirmative determination under ss 269TD(4)(a) of the Act that there appeared to be sufficient grounds for the publication of a dumping duty notice but before publication of this notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia 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 and because of that, material injury to the Australian industry producing like goods has been caused. Therefore under ss 269TG(2) of the Act, I **DECLARE** that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from Japan, Korea, Malaysia and Taiwan to Australia.

The considerations relevant to my determination of material injury to the Australian industry caused by dumping are the size of the dumping margins, the effect of dumped imports on prices in the Australian market in the form of price depression, price suppression and the consequent impact on the Australian industry including loss of profits and reduced profitability. In making my determination, I have considered whether any injury to the Australian industry is being caused or threatened by a factor other than the exportation of dumped goods, and have not attributed injury caused by other factors to the exportation of those dumped goods.

Particulars of the export prices, non-injurious prices, and normal values of the goods as ascertained will not be published in this notice as they may reveal confidential information.

Interested parties may seek a review of this decision by lodging an application with the Trade Measures Review Officer (TMRO), in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

PUBLIC RECORD

The TMRO can be contacted by phone, fax or mail:

Trade Measures Review Officer
c/- Australian Government Solicitor
Level 42 MLC Centre
19 Martin Place
Sydney NSW 2000
Phone: (02) 9581 7640
Fax: (02) 9581 7732

Enquiries concerning this notice may be directed to the case manager on telephone number (02) 6245 5453, fax number (02) 6275 6990 or email to itrops1@customs.gov.au.

Dated this 9th day of December 2012



JASON CLARE
Minister for Home Affairs

PUBLIC RECORD

1 CONTENTS

1	CONTENTS	5
2	SUMMARY AND RECOMMENDATIONS.....	7
2.1	Recommendation	7
2.2	Application of law to facts	7
2.3	Findings and conclusions	9
3	BACKGROUND	11
3.1	Introduction.....	11
3.2	Statement of essential facts 188	11
3.3	Preliminary affirmative determination 188.....	11
3.4	Report 188.....	12
4	THE GOODS AND LIKE GOODS.....	14
4.1	Findings.....	14
4.2	The goods	14
4.3	Like goods	15
4.4	Claims by interested parties	15
4.5	Customs and Border Protection's assessment	17
5	AUSTRALIAN INDUSTRY	20
5.1	Findings.....	20
5.2	Production processes.....	20
6	AUSTRALIAN MARKET	22
6.1	Findings.....	22
6.2	Market size	22
6.3	Importers	24
6.4	Market supply and structure	24
7	DUMPING INVESTIGATION	26
7.1	Findings.....	26
7.2	Introduction.....	26
7.3	Japan.....	27
7.4	Korea – POSCO.....	28
7.5	Korea – Hyundai Co., Ltd	29
7.6	Korea – other exporters.....	31
7.7	Malaysia – Megasteel Sdn. Bhd.	31
7.8	Malaysia – other exporters	32
7.9	Taiwan – China Steel Corporation	33
7.10	Taiwan – Chung Hung Steel	35
7.11	Taiwan – Shang Chen Steel Co, Ltd	37
7.12	Taiwan – other exporters.....	39
8	HAS DUMPING CAUSED MATERIAL INJURY.....	40
8.1	Findings.....	40
8.2	Introduction.....	40
8.3	Approach to assessing material injury.....	40
8.4	Cumulation	41
8.5	Macro analysis – injury caused by dumping to the industry as a whole	43
8.6	Micro analysis - Pipe and tube sector	50
8.7	Micro analysis - Distribution and manufacturing sectors.....	54
8.8	Micro analysis - Automotive sector.....	59
8.9	Other causes of injury	61
8.10	Increased raw material costs	62

PUBLIC RECORD

8.11	Impact of currency fluctuations	64
8.12	Decrease in demand and low steel prices	65
8.13	Management decisions and closure of BlueScope's HRC export business	69
8.14	Dumping investigations by other administrations	70
8.15	Injury to the Australian industry caused by dumping	70
9	WILL DUMPING AND MATERIAL INJURY CONTINUE	74
9.1	Findings	74
9.2	Introduction	74
9.3	Customs and Border Protection's assessment	74
10	APPLICATION OF THE LESSER DUTY RULE	76
10.1	Finding	76
10.2	Introduction	76
10.3	Unsuppressed selling price	76
10.4	Australian industry	77
10.5	Submissions made prior to the SEF	77
10.6	Submissions in response to the SEF	77
10.7	Customs and Border Protection's assessment	77
11	ANTI-DUMPING MEASURES	80
12	PUBLIC INTEREST	82
12.1	Public interest submissions	82
13	RECOMMENDATIONS	83
14	ATTACHMENTS	85

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 report sets out the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) recommendations to the Minister for Home Affairs (the Minister) in relation to the investigation.

2.1 Recommendation

The delegate of the CEO recommends to the Minister that a dumping duty notice be published in respect of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan by all exporters.

The delegate recommends that the Minister sign the attached schedule (confidential appendix 1) and sign the relevant notices (appendix 2), being notices under sections 269TG(1) and 269TG (2) of the *Customs Act 1901*¹ (the Act), and section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

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 for the purpose of making a report to the Minister.

The CEO's powers under this Division have been delegated to certain officers of Customs and Border Protection.

2.2.2 Application

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. 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:

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

PUBLIC RECORD

- there was, or was likely to be established, an Australian industry in respect of like goods; and
- 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 15 June 2012.

2.2.4 Statement of essential facts

On 3 October 2012, the delegate of the CEO placed on the public record a statement of essential facts (SEF188) on which the delegate proposed to base a recommendation to the Minister concerning the publication of a dumping duty notice.

Interested parties were invited to lodge responses to SEF188 by no later than 23 October 2012. Non-confidential versions of all submissions considered are available on the public record for this investigation.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of Customs and Border Protection's visit reports and other publicly available documents. It is available by request in hard copy in Canberra (phone 02 6275 6547 to make an appointment), or online at <http://www.customs.gov.au/anti-dumping/EPR188.asp>.

Documents on the public record should be read in conjunction with this report.

2.2.5 Preliminary Affirmative Determination

On 3 October, the delegate, after having regard to the application and submission, was satisfied that there were sufficient grounds for the publication of a dumping duty notice in respect of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan and made a preliminary affirmative determination to that effect.

Following this determination, Customs and Border Protection decided to require and take securities in respect of any interim dumping duty that may become payable in relation to HRC from Japan, Korea, Malaysia and Taiwan that were entered for home consumption from 5 October.

2.2.6 Report 188

Within 155 days after the initiation of an investigation, or such longer period as the Minister allows, the CEO must give the Minister a report in respect of the goods the subject of the application.

In formulating the final report the CEO must have regard to the application concerned, any submissions concerning the publication of the notice to which the delegate of the CEO has had regard to for the purpose of formulating SEF188, any

PUBLIC RECORD

submission in response to SEF 188 received by Customs and Border Protection within 20 days of the publication of the SEF, and any other matters considered relevant.²

2.3 Findings and conclusions

Customs and Border Protection has made the following findings and conclusions based on available information during the course 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.

2.3.3 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	2.6%
Korea – other exporters	11.8%
Malaysia – Megasteel Sdn. Bhd.	15.4%
Malaysia – other exporters	15.4%
Taiwan – China Steel Corporation	2.6%
Taiwan – Chung Hung Steel Corporation	6.5%
Taiwan – Shang Chen Steel Co, Ltd	4.1%
Taiwan – other exporters	8.2%

2.3.4 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

² Subsection 269TEA(3)

PUBLIC RECORD

- lost profits and profitability.

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

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

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

Customs and Border Protection has found that the FOB non-injurious price for each exporter is a price equal to the respective normal value, with the exception of pickled and oiled HRC from Japan.

For pickled and oiled HRC from Japan, Customs and Border Protection considers that the non-injurious price is the export price.

2.3.7 Recommendation

Based on these findings, the CEO recommends to the Minister that a dumping duty notice be published in respect of HRC exported to Australia by all exporters from Japan, Korea, Malaysia and Taiwan.

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 (the injury period) for the purpose of analysing the condition of the Australian industry.

3.2 Statement of essential facts 188

On 3 October, Customs and Border Protection placed SEF188 on the public record, on which the CEO proposed to base his recommendation to the Minister concerning the publication of a dumping duty notice.

Interested parties were invited to lodge submissions no later than 20 days after the publication of SEF188. Non-confidential versions of all submissions received are available on the public record for this investigation.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of Customs and Border Protection's visit reports, and other publicly available documents.

The public record is available online at <http://www.customs.gov.au/anti-dumping/EPR188.asp>. Documents on the Public Record should be read in conjunction with this report.

3.3 Preliminary affirmative determination 188

The CEO may, at any time not earlier than 60 days after the date of initiation of an investigation, make a PAD in respect of goods the subject of an application³. In order to make a PAD, the CEO must be satisfied that:

³ Under s.269TD of the Act

PUBLIC RECORD

- a) there appears to be sufficient grounds for the publication of such a notice; or
- b) it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

On 3 October 2012, after having regard to the application and submissions made to the investigation, the CEO was satisfied that there were sufficient grounds for the publication of a dumping duty notice in respect of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan, and made a preliminary affirmative determination (PAD) to that effect (PAD188).

Following this PAD, Customs and Border Protection decided to require and take securities in respect of any interim dumping duty that may become payable in respect of HRC from Japan, Korea, Malaysia and Taiwan that were entered into home consumption on or after 5 October 2012.

3.4 Report 188

In formulating this report to the Minister, the CEO must have regard to:

- the application concerned;
- any submissions concerning publication of the notice to which the delegate of the CEO has had regard for the purpose of formulating SEF188;
- SEF188 itself;
- any submission in response to SEF188 received by Customs and Border Protection within 20 days after the day that statement was placed on the Public Record; and
- any other matters considered relevant.

Customs and Border Protection received the following statements in response to the statement of essential facts and which were taken into account in preparing REP188:

- Hyundai Steel Company, 22 October, 12 November
- MegaSteel Sdn Bhd, 23 October
- POSCO, 23 October
- GM Holden Limited, 23 October
- BlueScope Steel, 23 and 29 October
- Nippon Steel, 23 October and 13 November
- Ford Motor Company of Australia, 23 October
- JFE Steel Corporation, Kobe Steel Ltd and Nisshin Steel Co Ltd, 23 October
- OneSteel Australian Tube Mills Pty Ltd, 23 October
- China Steel Corporation, 24 October
- Shang Chen Steel Co Ltd, 12 November

In addition to the submissions listed above, in formulating the final report the CEO also had regard to the following submissions that were received prior to the SEF but that were not able to be addressed at that time:

- BlueScope Steel Limited, 21 September

PUBLIC RECORD

- 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
- Nippon Steel, 28 September
- Hyundai Steel Company, 2 October
- Chung Hung, 2 October

PUBLIC RECORD

4 THE GOODS AND LIKE GOODS

4.1 Findings

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.

Hot rolled sheet that is 3/16th of an inch (4.75mm) thick or more is considered to plate and therefore excluded from the investigation. Hot rolled sheet that is below this thickness is included in the investigation.

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%

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”.⁴

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;
- 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;

⁴ Subsection 269T(1)

PUBLIC RECORD

- 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, and
- 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 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.

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 as customers 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 with a list of its

PUBLIC RECORD

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, it can supply the many of the specifications required and this does not detract from a finding of like goods.

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.

Further, it has been submitted that BlueScope cannot produce HRC under 1.5 mm thick and has further limitations on certain grades. This impacts the potential end use of the product. 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.

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*

PUBLIC RECORD

- 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
- 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, have 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 are like goods to the goods exported from Japan, Korea, Malaysia and Taiwan.

4.5.1 Submissions in response to the SEF

Nippon Steel

Nippon Steel Corporation (Nippon Steel) argues that in reaching a conclusion of like goods on a global level, Customs and Border Protection ignores the market segmentation, which impacts the like goods assessment specifically in relation to HRC imported for use in the automotive sector.

For the purpose of considering whether there is an Australian industry producing like goods, Customs and Border Protection makes this determination by considering the description of the goods as a whole. An assessment is not made as to whether the Australian industry produces like goods to certain sub-categories of the goods or each model individually. Should this be the case, there would be no need to include the exemption provisions in the legislation and Customs and Border Protection would effectively be required to conduct an exemption investigation on every single model of the goods imported into Australia.

That said, an analysis of industry's ability to produce specific grades is relevant to assessing whether dumping has caused or can cause material injury to the Australian industry, as is discussed in the market segment analysis in chapter 7.

POSCO and GM Holden

PUBLIC RECORD

POSCO and GM Holden Limited (GM Holden) argue that Customs and Border Protection should not have accepted such a broad characterisation of the goods under consideration which did not differentiate between product sectors.

Customs and Border Protection notes that the product description set for an investigation, which defines the goods under consideration, is determined by the party that is applying. Neither the Customs Act nor the Anti-Dumping Agreement imposes an obligation concerning the scope of the product that is subject to an investigation⁵. That said, the goods that are ultimately covered by the dumping investigation will affect the injury analysis in relation to the goods, as covered in chapter 7.

4.5.2 Exemption of certain goods from measures

In the event that measures are imposed on HRC exported 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.

Several interested parties have requested that certain goods be exempt from the measures, including HRC that falls outside the width and thickness range that BlueScope can produce. Customs and Border Protection will conduct separate inquiries into whether the nominated goods should be exempt from measures.

⁵ World Trade Organisation, Panel Report, European Communities – Anti-Dumping Measures on Farmed Salmon from Norway, 16 November 2007, pg 112.

PUBLIC RECORD

5 AUSTRALIAN INDUSTRY

5.1 Findings

Customs and Border Protection found⁶ 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 manufactured in Australia.⁷ 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.⁸

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

⁶ Pursuant to subsection 269T

⁷ Subsection 269T(2)

⁸ 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, available on the public record.

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

PUBLIC RECORD

6 AUSTRALIAN MARKET

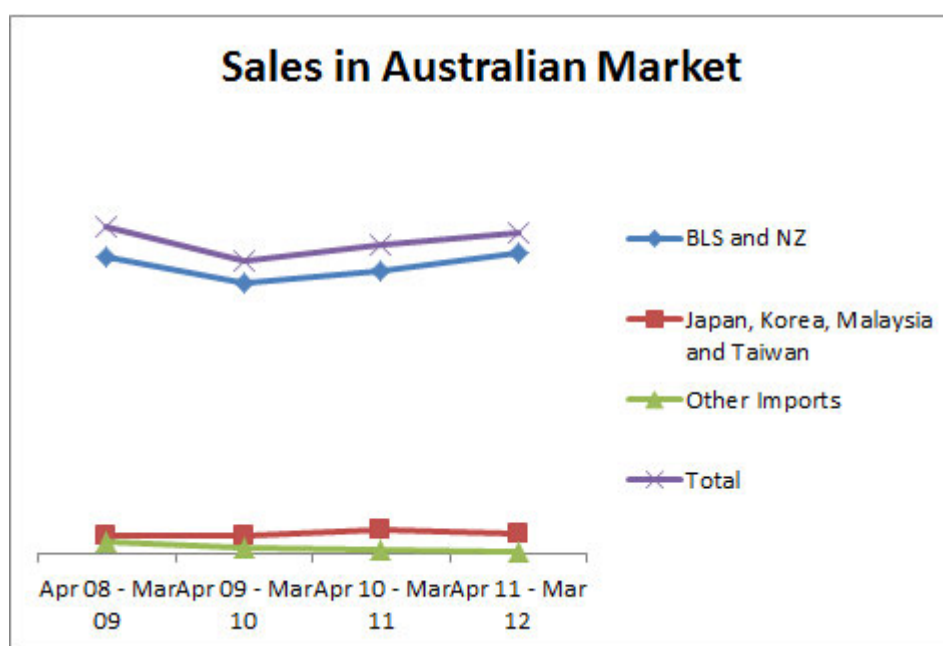
6.1 Findings

Customs and Border Protection has found the volume of HRC sold into the Australian market 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.

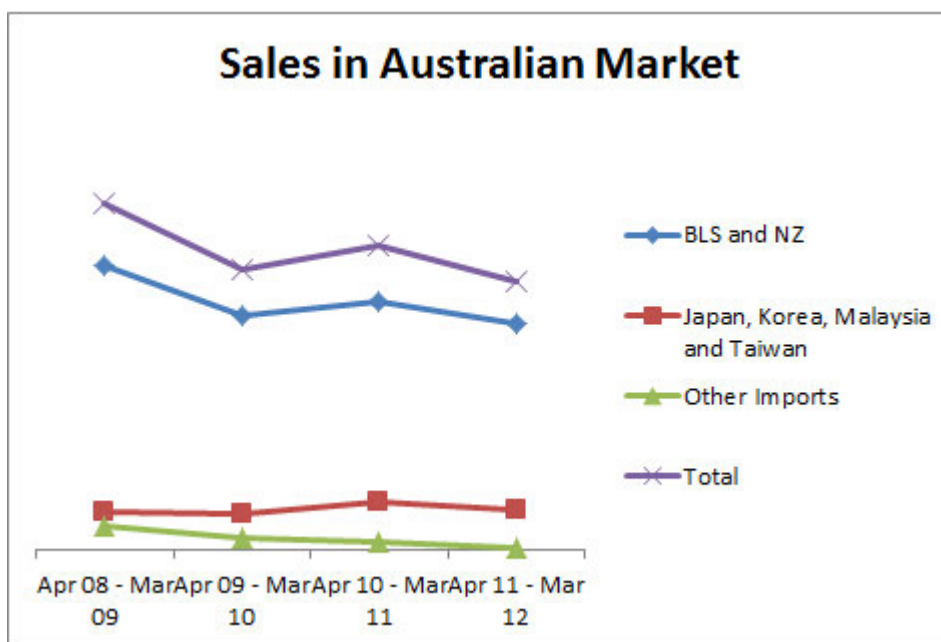
The following chart shows the total market size for HRC during the investigation period. Included with the Australian industry's sales (and excluded from import volumes) are sales from BlueScope's New Zealand based subsidiary, New Zealand Steel.



This chart includes sales into the market from BlueScope and imports and internal transfers within BlueScope. It shows that over the injury period the Australian market has grown.

However, this growth is a result of an increase in internal transfers within BlueScope. The following chart shows the movement in the Australian market excluding internal transfers.

PUBLIC RECORD



Excluding these internal transfers, the Australian market for HRC has been found to fluctuate between 750,000 and 1,000,000MT and over the injury period, the external market has contracted. Imports have been found to account for approximately 20% of the Australian market.

Data relating to import volumes and market share is at **confidential attachment 1**.

6.2.1 Submissions in response to the statement of essential facts

POSCO and GM Holden

POSCO and GM Holden argue that Customs and Border Protection's finding that the Australian HRC market is between 750,000 and 1,000,000MT is to imprecise and therefore the market analysis performed is likely inaccurate. However, the market size range of 750,000MT to 1,000,000MT is reflective of the fluctuations in the market size during the injury period, as indicated by the chart above. Customs and Border Protection has calculated the market size based on all available information in each year of the injury period and considers its market analysis to be accurate.

It was also argued that the analysis done is inadequate as Customs and Border Protection has not differentiated between sales from each of the countries. As discussed below, in section 8.4, Customs and Border Protection has cumulated exports from the different sources. Where exports from different sources are cumulated, it is not necessary to individually examine export volumes from each nominated country, other than to ensure that the volume of exports from each country meets the volume threshold.⁹

⁹ World Trade Organisation, Appellate Body Report, European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil, 22 July 2003, pg 44,45

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

6.3.1 Submissions in response to the SEF

POSCO and GM Holden

POSCO and GM Holden argue that these importers are all distributors and therefore Customs and Border Protection may not have gathered adequate information regarding the market causing unreliable results.

While it is not clear what information is inadequate, the selected importers include end users and distributors that sell into the manufacturing, pipe and tube and automotive segments. Each of the visited importers provided detailed transactional sales information during the investigation period to enable a comparative analysis with BlueScope's selling prices.

Submissions have also been received from end users in all sectors. Therefore, Customs and Border Protection considers that it has gathered accurate market information across all market sectors.

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

PUBLIC RECORD

different and accordingly has examined each sector separately in chapter 8 to determine if dumping has caused material injury.

Information relating to the size of these market segments and the volumes of locally produced and imported HRC sold into each segment is at **confidential attachment 1**.

PUBLIC RECORD

7 DUMPING INVESTIGATION

7.1 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	2.6%
Korea – other exporters	11.8%
Malaysia – Megasteel Sdn. Bhd.	15.4%
Malaysia – other exporters	15.4%
Taiwan – China Steel Corporation	2.6%
Taiwan – Chung Hung Steel Corporation	6.5%
Taiwan – Shang Chen Steel Co, Ltd	4.1%
Taiwan – other exporters	8.2%

Dumping margin calculations for all exporters are at **confidential attachment 2**.

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 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 exports for the purpose of deciding whether or not to publish a dumping duty notice.

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

PUBLIC RECORD

Border Protection considered that the manufacturers, and not the trading companies, are the exporters for the purpose of determining whether dumping has occurred.

For exporters that submitted completed questionnaire responses, Customs and Border Protection assessed the level of verification required. Verification of questionnaire responses was undertaken at the premises of exporters, except for Chung Hung Steel Corporation which was the subject of a limited-scope examination of documents and records.

For all other exporters that refused to provide necessary information by completing a questionnaire response, individual dumping margins have been calculated based on relevant information gathered during exporter verification audits within each nominated country.

In addition, 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. In the absence any verifiable questionnaire responses from Japanese exporters, 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 reconciled to verified data provided from the abovementioned importers and 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

PUBLIC RECORD

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:

- 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 product dumping margin for HRC exported from Japan was **7.5%**.

7.4 Korea – POSCO

7.4.1 Export prices

POSCO is 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 invoiced 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 were 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 in accordance with s.269TAC(8) 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

PUBLIC RECORD

- 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 269TAC(2)(c), using the cost of production of the exported product plus an estimate of domestic selling expenses and a reasonable profit achieved on domestic sales of like goods. The relevant adjustments outlined above were then made in accordance with s.269TAC(9) 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 product dumping margin for HRC sold by POSCO during the investigation period is **6.0%**.

7.5 Korea – Hyundai Co., Ltd

7.5.1 Submission from Hyundai

In its response to the SEF, Hyundai Co., Ltd (Hyundai) raised a number of issues dealing with the approach used by Customs and Border Protection in calculating normal values and dumping margin.

It identified the following calculation and clerical errors:

- incorrect row reference in calculating the net selling price of HRC domestic sales;
- failure to make the necessary adjustments to constructed normal values to account for domestic and export credit terms, and
- a clerical error in the calculation of the profit ratio achieved on domestic sales in the ordinary course of trade to be used in constructed normal values.

Customs and Border Protection has reviewed the relevant calculations and found that the errors identified by Hyundai were present. As part of its review, Customs and Border Protection identified an additional clerical error which resulted in the failure of normal values to be adjusted upwards for Hyundai's export handling and FOB related expenses as recommended in the visit report.

The relevant calculations have been amended to correct the issues above.

Hyundai also queried an adjustment made to ensure a proper comparison between a single exported grade and the equivalent domestic grade. In making the adjustment, Customs and Border Protection had regard to information provided by Hyundai and other interested parties.

Hyundai argued that information provided by other parties that was relied upon for calculating the level of the adjustment did not reflect actual price differences as

PUBLIC RECORD

evident in their export sales database. It submitted therefore that the adjustment should be based on the actual price difference on its export sales. Customs and Border Protection's preference in the first instance is to look to information from the domestic market for quantifying adjustments. Hyundai provided further information showing the price difference between the relevant models on the domestic market. After examining the information, Customs and Border Protection has amended the level of the adjustment.

Lastly Hyundai queried the model matching criteria used by Customs and Border Protection to compare export prices and normal values. At the outset of the investigation, Customs and Border Protection identified a number of physical characteristics that may be relevant to defining models for comparison purposes. In the case of Hyundai's exports, Customs and Border Protection had regard to relevant information which showed the specific characteristics that impacted price and defined the model accordingly.

7.5.2 Export prices

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.

7.5.3 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 10 of the 11 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 selling, general and administrative costs plus the rate of profit achieved on domestic sales of like goods in the ordinary course of trade. Due to the nature of the grade, Customs and Border Protection was unable to use other domestic sales with a specification adjustment. The relevant adjustments outlined above were then made to ensure a fair comparison between the constructed normal value and the export price.

PUBLIC RECORD

7.5.4 Dumping margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price 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 **2.6%**.

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 exporters from Korea 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).

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

PUBLIC RECORD

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 exporters from Malaysia 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 **15.4%**.

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

PUBLIC RECORD

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 Submissions by BlueScope

BlueScope questioned whether the selling, general and administrative costs included in the cost to make and sell HRC adequately reflected CSC's liabilities. BlueScope provided a balance sheet from the Taiwan stock exchange for the year ending 30 June 2012 and 2011 which showed that CSC has liabilities of approximately A\$5billion. Customs and Border Protection examined the balance sheet and found that it was similar to the balance sheet in CSC's audited financial statements for the year ending 31 December 2011 and 2010, which are available on the CSC's website. The differences between these documents can be accounted for by the different periods they cover. Customs and Border Protection used the audited financial statements as the basis of its selling, general and administrative costs and is therefore satisfied that relevant financial costs have been captured.

BlueScope also requested that where a 'timing adjustment' was made to normal values, it be made on the basis of a price differential for a comparable like model rather than on the basis of cost. This adjustment has been made. As outlined in the review report for China Steel Corporation available on the public record, 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 the price using the extras pricing sheets provided by the company.

7.9.4 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 **2.6%** for the investigation period.

The dumping duty rates are different to those published in the SEF due to the correction of a minor calculation error.

PUBLIC RECORD

7.10 Taiwan – Chung Hung Steel

7.10.1 Submission from Chung Hung

In a submission received prior to the SEF, Chung Hung raised a number of issues dealing with the approach used by Customs and Border Protection in calculating normal values and the product dumping margin.

Chung Hung identified an error in the normal value calculations which led to domestic credit costs being added to the normal value instead of being deducted as recommended in the verification visit report. Customs and Border Protection has confirmed that the error was present following a review and has amended the relevant calculations accordingly.

Chung Hung further queried the preliminary approach to construct normal values for those periods where no ordinary course of trade sales existed. It argued that the current provisions require normal values to be established under s.269TAC(1) where all the necessary conditions have been met, and that a move to construction is only possible where one of the exceptions under s.269TAC(2)(a) or (b) applies.

Customs and Border Protection has reconsidered its preliminary findings in relation to Chung Hung's exports and is of the view that sufficient information exists for normal values in each period to be established under s.269TAC(1) for those models where there was a sufficient volume of domestic sales in the ordinary course of trade. For the periods with no domestic sales, normal values have been established by reference to ordinary course of trade sales in an alternative period and a timing adjustment applied to reflect the difference in costs and prices between the two periods.

7.10.2 Submission by BlueScope

BlueScope argues that a level of profit should be applied to constructed normal values determined for grades sold by CHS that were unprofitable or are of insufficient volume. BlueScope argues that this is consistent with the intent of *Customs Amendment (Anti-Dumping Improvements) Bill (No.2) 2012* and consistent with Customs and Border Protection's recent practices, although it is unclear which cases BlueScope is referring to.

Whilst the *Customs Amendment (Anti-Dumping Improvements) Bill (No.2) 2012* is before the Parliament, the current and therefore applicable legislation states that profit shall not be included in calculations of normal value where domestic sales were not profitable or recoverable pursuant to subsection 269TAC(13). Consequently, Customs and Border Protection cannot add any profit margin to these sales.

7.10.3 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.

PUBLIC RECORD

7.10.4 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 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 monthly periods in which there were no suitable domestic sales of like goods in the ordinary course of trade, a normal value from a different period was used and a timing adjustment was made based on the difference in costs between those periods.

For those models where no identical domestic sales were found to exist during the investigation period, normal values were established having regard to domestic sales of like goods in the ordinary course of trade under subsection 269TAC(1). In accordance with 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;
- service fees; and
- physical characteristics.

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).

7.10.5 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 6.5%.

PUBLIC RECORD

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;
- port and handling costs; and
- 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 Submission by Shang Chen

On 26 September and 12 November, Shang Chen provided a submission in which it argued that the visit team's finding that the date of sale was the invoice date was incorrect. Rather, it argued that the contract date was the correct date of sale. Shang Chen argues that the date of sale is determined by the importer and the exchange rate for the importer is set at the contract date. The use of the invoice date as the date of sale results in an irrelevant exchange rate being applied to the export price.

The date of sale is the date on which parties agree upon all material terms of sale. It is Customs and Border Protection's view that the date of sale will normally be the date of the invoice as recorded in the exporter's records, unless evidence is

PUBLIC RECORD

presented that establishes the material terms of sale on some other date. Therefore it is important to resolve the date of sale as earlier as possible in the investigation as it will determine whether export and domestic sales fall within the investigation period.

In the case of Shang Chen's exports, Customs and Border Protection notes that the exporter's questionnaire response included no claim about an alternative date of sale and that no such claim was expressed during the verification visit. Therefore, there is insufficient information to demonstrate that the date of invoice does not reflect the material terms of sale.

According to the submission provided by Shang Chen the reasoning to make a claim subsequent to the verification visit was because its analysis showed that dumping calculations based on the date of sale as the contract date resulted in a lower dumping margin. Customs and Border Protection does not consider this sufficient reason to change its methodology.

7.11.4 Submission by BlueScope

BlueScope notes that while a majority of adjustments made to domestic sales to ensure their comparability to export sales were done on the basis of price differences, adjustments for pickling and oiling and sheet were done on the basis of costs. BlueScope asserts that all adjustments should be done on the basis of price.

Customs and Border Protection made the adjustments to pickled and oil and sheet products on the basis of costs because there was no relevant price information available. No pickled and oiled or sheet models were found to be sold by Shang Chen in the ordinary course of trade and prices for these characteristics were not listed on the price extras sheet. Therefore cost differences, uplifted by a gross margin to reflect a price impact, has been used to make the adjustment. This adjustment was consistent with the price differences found for pickled and oiled and sheet HRC for other Taiwanese exporters.

BlueScope also argues that an adjustment should be made to the normal value for protective packaging for export sales of HRC sheet. This adjustment has been made.

7.11.5 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).

In revising the calculations, Customs and Border Protection identified that an error had been made, which resulted in a revision of the numbers as shown in the statement of essential facts. An adjustment was also made for the protective sheeting for export sales. The dumping margin for HRC exported to Australia by Shang Chen in the investigation period was **4.1%**.

PUBLIC RECORD

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.

7.12.3 Dumping margin

A dumping margin for the investigation period has been calculated by comparing the weighted average export price of all exporters from Taiwan 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 **8.2%**.

The dumping margin has changed since publication of the SEF as a result of changes to the dumping margins of cooperating exporters from Taiwan.

PUBLIC RECORD

8 HAS DUMPING CAUSED MATERIAL INJURY

8.1 Findings

Customs and Border Protection has made a 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.¹⁰

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 interested parties were also invited to make submissions in relation to the investigation.

8.3 Approach to assessing material injury

In assessing the condition of the Australian industry, Customs and Border has first conducted a macro-analysis, which looks at imports, market share, prices and 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:

¹⁰ S 269TG

PUBLIC RECORD

- 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 the specific effects of dumping within each market sector. In conducting this assessment the price undercutting analysis 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.

Customs and Border Protection then has examined other possible causes of injury to the Australian industry, including high raw material costs, exchange rate fluctuations and globally depressed steel prices to separate and distinguish the effects of these factors from the effects of dumping.

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 and the effects of other factors, Customs and Border Protection has assessed the overall impact that dumped imports had on BlueScope to determine whether injury attributable to dumped imports is material.

8.4 Cumulation

8.4.1 Submissions in response to the SEF

In the SEF, Customs and Border Protection stated that the effects of imports from different countries would be cumulated when assessing the injury they caused to the Australian industry. Several interested parties have raised issue with this decision to cumulate and argue that it is not appropriate due to the different market dynamics in each sector and the lack of competition between sectors. They argue that these factors preclude Customs and Border Protection from cumulating the effects of the nominated countries.

8.4.2 Customs and Border Protection's findings

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 regard¹¹ 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

¹¹ S.269TAE(2C) of the Act

PUBLIC RECORD

This assessment essentially seeks to determine whether imports from the different sources compete with each other and with the domestic like products in the market.

In making this assessment, Customs and Border Protection takes into consideration the physical characteristics and uses of imports and domestic like goods as well as:

- the degree of interchangeability, fungibility or substitutability; and
- customer perceptions and specific customer requirements.

In making this assessment, Customs and Border Protection takes into account information relating to the injury period.

Customs and Border Protection has identified that there are three market segments in the Australian market, pipe and tube, manufacturing and automotive, in addition to the distribution segment, which supplies the other three sectors. Customs and Border Protection has identified that imports generally enter the manufacturing sector by distributors.

Within each of the market sectors, Customs and Border Protection has found that BlueScope competes with exporters from two or more of the nominated countries. While isolated exceptions exist, generally speaking HRC produced to a given specification by an exporter in a given country is physically interchangeable with HRC produced to the same specification in any other country, or the Australian equivalent of the grade for HRC produced in Australia. As such, the goods compete amongst themselves regardless of origin and share the same channels of distribution and same potential customers.

In the pipe and tube sector, imports are substitutable with HRC supplied by the Australian industry and both are used for the same purpose. In addition, the price of imports from both sources into this market determines the price the Australian industry sets.

In the distribution and manufacturing sector, 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. Further, BlueScope's prices in the distribution sector are also referenced to import parity pricing.

In the automotive sector Customs and Border Protection has found that there are some products that this sector requires that BlueScope cannot provide but these are a minority and there are many specifications that BlueScope can provide. While sales in this sector are contract based and set for a number of years, all exporters can bid for the contracts. This demonstrates a level of substitutability.

Therefore, Customs and Border Protection consider that in each sector, exports from different countries compete with each other and the Australian industry.

The interested parties who have raised issue with Customs and Border Protection's intention to cumulate exports from all countries generally agree that within a sector HRC from different sources is usually interchangeable. They argue that it is the lack of interchangeability between sectors rules out cumulation. However, as explained

PUBLIC RECORD

below, competition between sectors is not required in order to cumulate, as cumulation requires competition between export countries and the Australian industry, not between market sectors.

Customs and Border Protection has found that exporters from Japan, Korea, Malaysia and Taiwan all compete across multiple market sectors. This presents a problem when seeking to examine the effects of exports from different countries separately. As explained above, it has been found that exports into a particular market segment are generally interchangeable and in competition with each other and the Australian industry. Therefore, the effects of these imports should be cumulated. When taken with the finding that each country of export sells HRC into two or more market sectors, this makes it impossible to isolate the effects of imports from a specific country. For example, when trying to examine the effects of imports from Korea, it is necessary to take into account its sales in:

- the pipe and tube sector, where Korean imports compete with the Australian industry and imports from Japan;
- the automotive sector, where Korean imports compete primarily with the Australian industry and imports from Japan; and
- the manufacturing and distribution sectors, where Korean imports compete with the Australian industry and imports from Japan¹², Malaysia and Taiwan.

While the nominated countries may not all sell HRC into each market sector, each country of export competes with other countries and the Australian industry in the segments in which they sell. The inability to isolate the effects of imports from each country specifically leaves no option but to cumulate the effects of imports from all countries. This does not preclude an injury assessment being carried out on a sector by sector basis to identify what injury has been caused by dumping, but requires that the effects of the dumping imports from all sources be assessed together.

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

8.5.1 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.

¹² JFE Steel, Kobe Steel and Nisshin Steel argue that Japan's sales to the manufacturing sector are insignificant. An assessment of Customs and Border Protection's import database shows that Japan exported small, but not insignificant volumes of HRC during the injury period to the distribution sector. Japanese exporters have established distribution channels and over the injury period their sales into this market were constant. Therefore, Customs and Border Protection must conclude that they are not an insignificant participant in the distribution market. In making this assessment, Customs and Border Protection has taken into account sales made by all Japanese exporters.

PUBLIC RECORD

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 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.

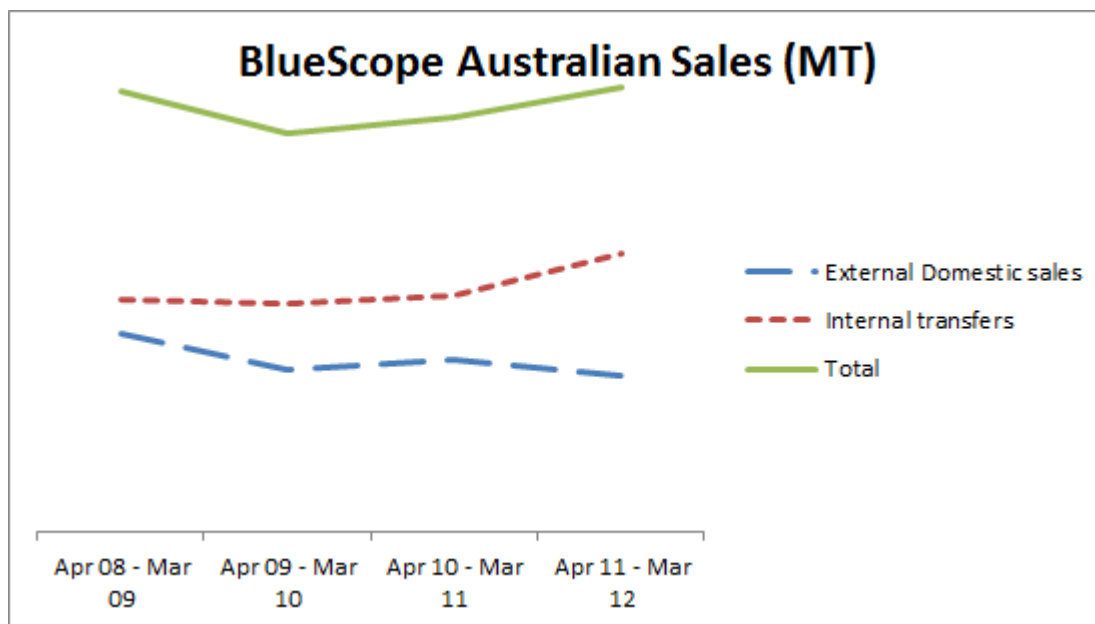
8.5.2 Assessment of injury

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 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:

PUBLIC RECORD

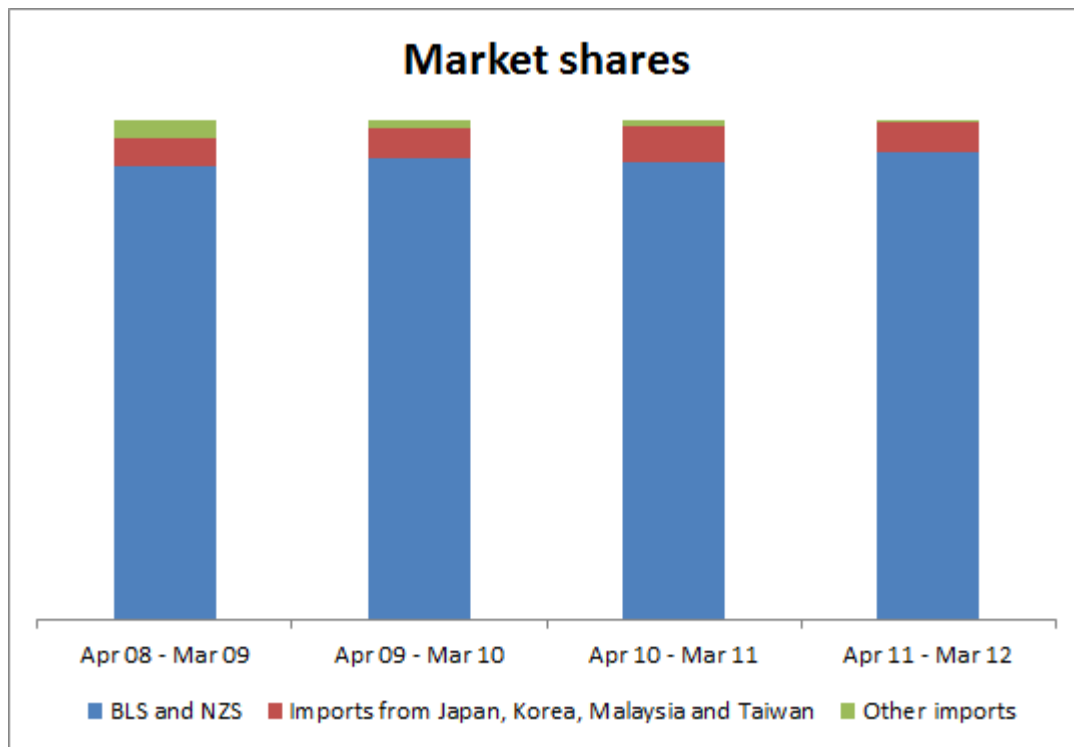


BlueScope's external sales volumes increased slightly in 2010/11 before declining in 2011/12. Over this period BlueScope's internal transfers have increased leading to an increase in the total domestic volume of sales.

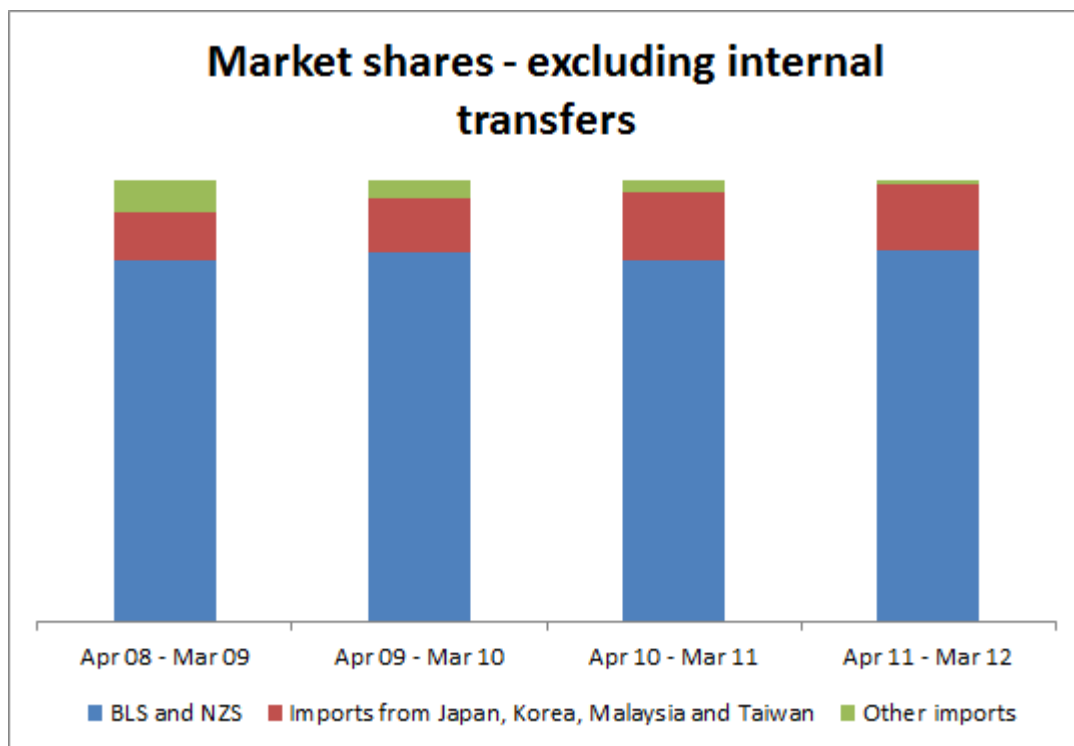
BlueScope set the price of its internal transfers based on its prices to customers that were most comparable in terms of volume and like specifications. Customs and Border Protection has examined the internal transfers and found that price, while based on a market price, was materially lower than BlueScope's external sales. Accordingly, these sales are not representative of arm's length transactions and are considered to be unreliable for assessing injury indicators associated with price effects. Therefore, the findings and charts shown below in relation to price effects exclude BlueScope's internal transfers and only relate to its external sales. However, BlueScope's internal transfers are suitable for assessments of volume and production related injury indicators. Therefore the charts and findings shown below in relation to volume effects include BlueScope's internal transfers unless stated otherwise.

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, internal transfers and imports. This market share chart shows that BlueScope maintained a steady market share, with a marginal 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



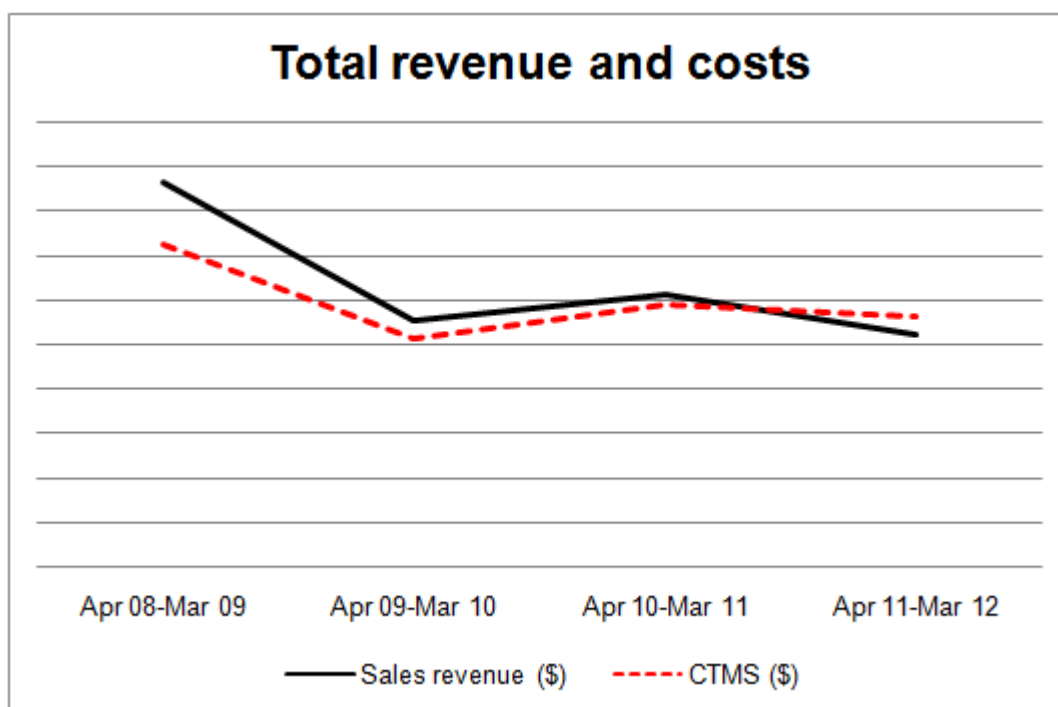
When BlueScope's internal transfers are excluded from the market share assessment, BlueScope's market share again remains constant, as shown below:



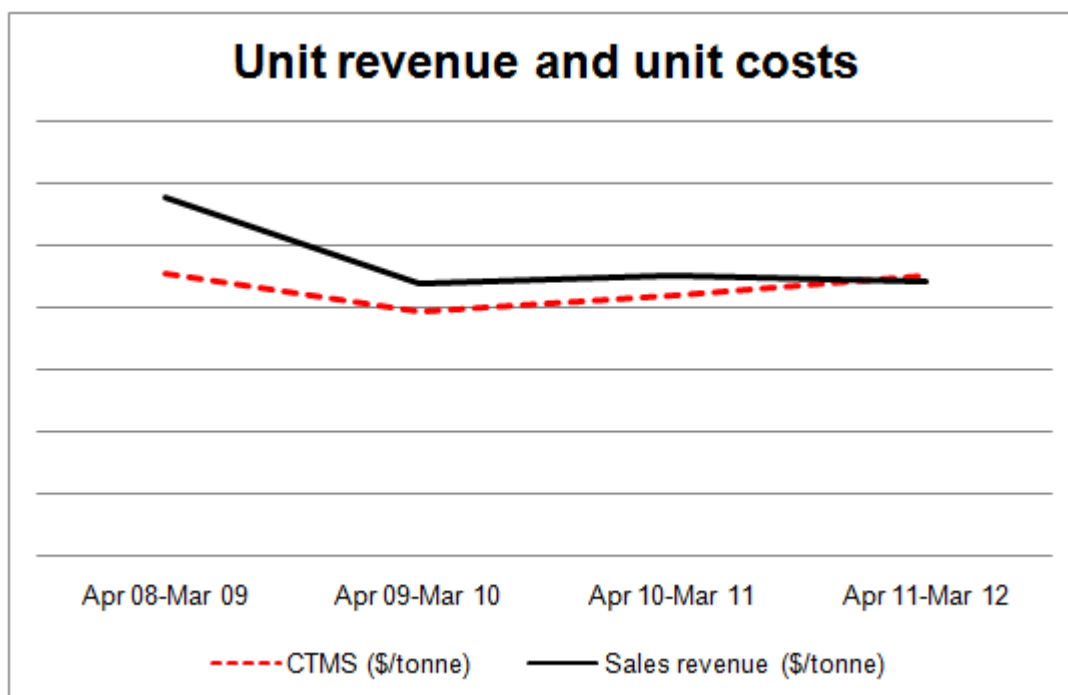
PUBLIC RECORD

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.

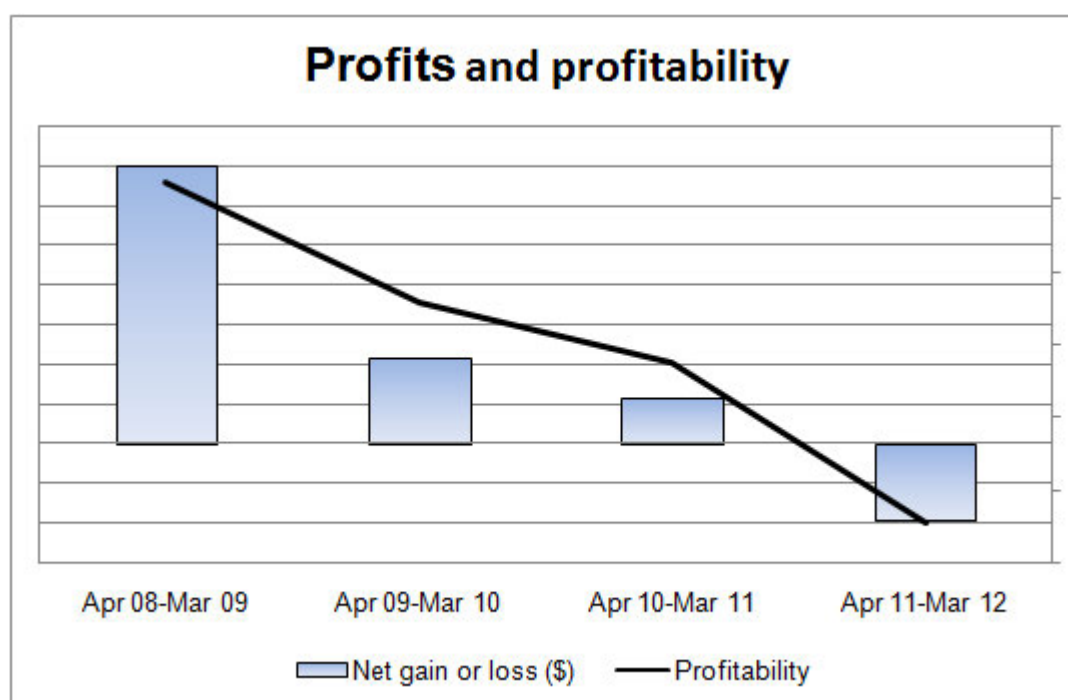
The following graphs show BlueScope's movements in total costs and revenue and unit costs and revenue for external sales of HRC produced in Australia. From 2010/11 to 2011/12, BlueScope's unit costs increased by 8% while its unit revenue decreased by 2%. The unit costs are calculated by dividing the total production costs for both external sales and internal transfers by the total production volume of the internal sales and external transfers.



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. In this investigation the injury period was from April 2008 and information relating to this period is shown in the charts and analysis included in this section.

8.5.3 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 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 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 at section 8.6.

Customs and Border Protection's analysis of price undercutting and other injury factors at the macro level is at **confidential attachment 3**.

8.5.4 Macro analysis – conclusion

The macro analysis outlined above indicates that the Australian industry suffered injury during the investigation period that coincided with exports of dumped HRC from the nominated countries. 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 2.6% and 15.4%, 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, Customs and Border Protection has placed little weight on that analysis as it does not properly address the impact of other factors or take account of the differing market dynamics within each of the identified sectors. 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.

8.6 Micro analysis - Pipe and tube sector

8.6.1 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.

PUBLIC RECORD

8.6.2 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 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.

8.6.3 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.

BlueScope's HRC sales in the pipe and tube sector were found to be 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 8.5.3 and

PUBLIC RECORD

compared the price of imports to the price of locally produced HRC sold under TUBEFORM® and PIPESTEEL® product offers.

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%.

Customs and Border Protection's assessment relating to price undercutting and profitability is at **confidential attachment 4**.

8.6.4 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 established quarterly prices for the pipe and tube sector based on import prices. In setting the price, BlueScope collected market intelligence to determine its view of what the free into store (FIS) import price of HRC would be in the coming quarter taking into account the large volumes customers in this sector purchased, current import offers (three months is the general lead time for imports), steel forward price indices, estimated forward exchange rates and estimated importation expenses. 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 that the parties considered would be reflective of the price of imports in the quarter plus a premium. 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 faulty market intelligence regarding importation elements that were used to determine the FIS price. Therefore, BlueScope's undercutting of export prices by 4% and the resulting injury this caused stems from these factors and 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. While Customs and Border Protection is not commenting on the size of the premium that BlueScope is entitled to charge or even whether it is achievable (this is discussed at section 8.12.3), this confirms that import parity forms the basis of price setting in this market sector.

PUBLIC RECORD

As price negotiations between BlueScope and its pipe and tube customers referenced imports prices during the investigation period that were sold at dumped prices, it must be concluded that had import prices not been dumped by between 2.6 and 15.4%, BlueScope could have expected to achieve higher prices. Customs and Border Protection further concludes that the increase in price BlueScope could have achieved would be equal to the dumping margin.

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, the HRC purchased was at dumped prices and these prices were used to set the industry's price. Furthermore, on-going purchases of dumped imported HRC by customers in the sector provided them with leverage when negotiating prices with BlueScope. Steel manufacturing is a capital intensive industry with high fixed costs. In order to recover fixed expenses, steel mills must run at high levels of production capacity. Therefore, BlueScope had to adjust its prices to be competitive with dumped imports or risk losing sales volume to its largest customers. The unprofitable nature of sales into this sector demonstrates the importance BlueScope put on maintaining its sales volumes even at the expense of its selling price.

8.6.5 Submissions in response to the statement of essential facts

OneSteel ATM

OneSteel ATM argues that the effects of imported finished pipe and tube products on HRC prices in the market have not been properly assessed as those goods affected more than the price of small/medium range HRC.

Customs and Border Protection considers that that competition from low priced imports of finished goods has contributed to importers/customers seeking more competitive offers on HRC imports from overseas mills. This has led to the dumping situation found during the investigation period. Those dumped prices were then used to extract equivalent competitive prices from BlueScope.

OneSteel ATM also argues that the lack of price undercutting precludes Customs and Border Protection from finding injury caused by dumping in this market sector. However, price undercutting is not necessary to finding injury caused by dumping in either Australia's Anti-Dumping Legislation or the WTO's Anti-Dumping Agreement¹³. In making this statement, the submitting parties overlook the critical factor that determines pricing in this sector, which is import parity. As explained above, Customs and Border Protection does not consider the lack of price undercutting and faulty market intelligence by BlueScope to prevent a finding that dumping imports

¹³ S269TAE of the Act list the factors that the Minister may have regard to in making a finding of material injury. The legislation notes this is a non-exhaustive list and does not state that any of the points listed are necessary to make a finding of material injury. Section 3.2 of the Anti-Dumping Agreement lists factors to be considered in making assessing material injury and states that 'no one or several of these factors can necessarily give decisive guidance'.

PUBLIC RECORD

contributed to suppressing prices in the market. Customs and Border Protection must, however, isolate the price suppression and injury caused by dumping from that caused by other factors as has been done.

JFE Steel, Kobe Steel and Nisshin Steel

JFE Steel, Kobe Steel and Nisshin Steel argue that Customs and Border Protection has ignored the effect of imports of finished pipe and tube products have had on the market. They also argue that the lack of price undercutting prevents Customs and Border Protection from concluding that imports have injured the Australian industry. Customs and Border Protection has addressed both these submissions above.

The parties also raised concerns with the concept of BlueScope's premium in the market. This is further addressed in section 8.12.3.

Nippon Steel

Nippon Steel submitted that import parity pricing is not used to set prices in this market sector. However, Customs and Border Protection has verified this with both the Australian industry and customers in this sector.

Nippon Steel also argues that Customs and Border Protection's conclusions are contrary to the evidence and that there is no evidence of price undercutting, lost market share or indications that customers were importing product for any reason other than to have a second source of supply. Customs and Border Protection has addressed the submission that the absence of undercutting precludes a claim that dumping has caused injury. The arguments relating to market share and a secondary source of supply overlook the suppressing effect that dumped imports had on price based on industry's use of an import parity price as explained in section 8.6.4 above.

8.7 Micro analysis - Distribution and manufacturing sectors

Customs and Border Protection has found that imported HRC generally enters the manufacturing sector via distributors. 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.

8.7.1 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 from 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.

PUBLIC RECORD

8.7.2 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.
- 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.

8.7.3 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 10% over the investigation period.

PUBLIC RECORD

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.

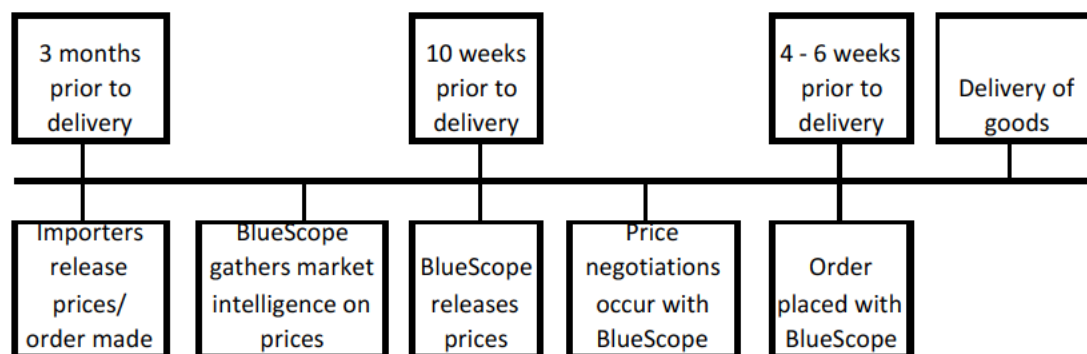
In the manufacturing sector, Customs and Border Protection found that BlueScope's sales volumes have remained constant.

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

Customs and Border Protection's assessment relating to price undercutting and profitability is at **confidential attachment 4**.

8.7.4 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:



The imports against which BlueScope set its prices during the investigation period have been found to be dumped, and as a result, BlueScope's prices were lower than they would have been had they been benchmarked against undumped prices.

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.

PUBLIC RECORD

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 a source of HRC other than BlueScope as the company may be competing with BlueScope in the downstream manufacturing market.

However, while price may not be the main factor in purchasing decisions, Customs and Border Protection has found that the price of imported HRC, even when purchased for the reasons listed above, is dumped and undercut prices of the Australian industry. These prices have been used in BlueScope's import parity pricing benchmarks and still influence its prices in this sector. Nonetheless, where customers consider that BlueScope is unable to supply them with HRC to specifications they require, they can apply for an exemption and an inquiry will be conducted to examine whether those goods should be exempt from the measures.

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. The nature of the steel and hot rolled products is that products of the same specification from different sources are generally interchangeable. As a result, the market is extremely price sensitive and price is one of the primary factors effecting purchasing decisions. Had BlueScope not set its price according to import parity, it would have lost sales to imports. Therefore, Customs and Border Protection considers that the industry has suffered injury in the distribution and manufacturing sectors as a result of dumped imports.

8.7.5 Submissions in response to the statement of essential facts

China Steel Corporation

China Steel Corporation (CSC) argue that as no injury was found in the automotive sector, no injury should be found in the manufacturing/ distribution sector as the two segments have similar levels of price undercutting and BlueScope's sales into both segments were found to be profitable. However, the market dynamics are different in the distribution and manufacturing sectors and in the automotive sector. As outlined above, Customs and Border Protection has found that BlueScope has suffered injury in the distribution and manufacturing sector as a result of the import parity pricing used in this sector. The import benchmarks based on dumped prices affected the price at which BlueScope sold its HRC.

PUBLIC RECORD

CSC also argues that the size of its dumping margin prevents a finding of injury caused by dumping. The dumping margin found for CSC was above the *de minimis* level of 2% and therefore sufficiently significant to have contributed to material injury being experienced by BlueScope. As Customs and Border Protection has cumulated the effects of dumping from all countries, injury must be assessed in relation to imports from all countries rather than on a country or even exporter specific level.

Megasteel

Megasteel also argues that the volume of its imports and the restraint it has shown in limiting its volume of exports to Australia should exempt it from the measures. However, the volume of imports from Malaysia was found to be greater than the 3% stipulated in the legislation and therefore considered to be material. In addition, as Customs and Border Protection has cumulated the effects of dumping from all countries, injury must be assessed in relation to imports from all countries rather than on a country or even exporter specific level.

Nippon Steel

Nippon Steel argues that there is no evidence that it was possible for BlueScope to achieve import parity prices during the investigation period. Customs and Border Protection has found that BlueScope set its prices by benchmarking import prices and during the investigation period achieved import parity prices based on the dumped imports.

Nippon Steel also submits that BlueScope did not need to lower its prices in instances where customers purchased imported HRC for non-price related reasons and that the effect of these factors have not been properly assessed. Customs and Border Protection has found that there are some reasons other than price that would lead customers to purchase imported, rather than locally produced HRC. However, the price of HRC purchased for these reasons were nonetheless affected by dumping, undercut BlueScope's prices and formed part of BlueScope's price setting mechanism in establishing an equivalent import parity price.

JFE Steel, Kobe Steel and Nisshin Steel

JFE Steel, Kobe Steel and Nisshin Steel contend that Customs and Border Protection has not appropriately taken into account the effect of competition from downstream products in the pricing setting of HRC. Customs and Border Protection notes that the parties have provided no evidence to support the statement made.

As noted earlier, interested parties have commented that competition from low priced imports of finished goods has contributed to importers/customers seeking more competitive offers on HRC imports from overseas mills. This has led to the dumping situation found during the investigation period. Those dumped prices were then used to extract equivalent competitive prices from BlueScope.

So whilst it's possible that competition from downstream products may have been a factor that caused HRC to be imported at dumped prices, ultimately it was the dumped HRC prices that caused BlueScope's prices to be suppressed.

PUBLIC RECORD

8.8 Micro analysis - Automotive sector

8.8.1 Claims by BlueScope

BlueScope argues that it has suffered injury in the automotive sector due to dumped imports. It argues that it has lost sales beyond those due to the contraction of the automotive sector and it suggests that it has experienced an erosion in its margins.

8.8.2 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.

8.8.3 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 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.

Customs and Border Protection's assessment relating to price undercutting and profitability is at **confidential attachment 4**.

PUBLIC RECORD

8.8.4 Customs and Border Protection's assessment

While Customs and Border Protection has found that BlueScope has reduced its sales to the automotive sector over the injury period, it has not found any evidence to link this reduction to competition from imports. No evidence has been provided of contracts lost to exporters in the nominated countries during the investigation period. Due to the longer term nature of contracts in this sector, Customs and Border Protection concludes that the loss of sales volume is due to other factors, such as the reduction in the number of cars manufactured in Australia.

Similarly, no evidence has been provided to indicate that profits in this sector have declined and even if this has occurred, that this is a result of competition with imports.

In making this 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 legislation¹⁴, 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.

8.8.5 Submissions in response to the statement of essential facts

BlueScope Steel

BlueScope argues that the finding that it has not suffered injury in the automotive sector is incorrect. Specifically, it argues that a conclusion on injury on the basis that its sales to the sector are profitable is simplistic and does not consider the level of return or whether there has been an erosion of profit in the injury period. Furthermore, BlueScope considers that the sales it has lost in this segment was greater than the contraction of the automotive sector.

However, BlueScope has not provided, nor has Customs and Border Protection found, any evidence to support the claim that BlueScope has suffered from reduced returns or an erosion of profit as a result of factors other than the contraction in the automotive sector. In the absence of this evidence, Customs and Border Protection is unable to conclude that BlueScope has suffered injury in the automotive sector due to dumped imports.

JFE Steel, Kobe Steel and Nisshin Steel

JFE Steel, Kobe Steel and Nisshin Steel argue that the finding that sales into the automotive sector have not caused injury to the Australian industry precludes

¹⁴ S. 269TDA(13)

PUBLIC RECORD

Customs and Border Protection from applying anti-dumping measures to these products. It argues that the investigation in regards to pickled and oiled products from Japan must be terminated under s.269TDA(13). However, this argument overlooks that s.269TDA(13) requires the investigation be terminated when 'goods the subject of the application' have not caused injury to the Australian industry. In this investigation the goods are HRC and while pickled and oiled HRC may not have caused injury, the Act requires that an assessment be made on the goods as a whole. Customs and Border Protection has found that HRC from Japan has caused injury to the Australian industry and therefore will not terminate the investigation in regards to Japan.

8.9 Other causes of injury

Interested parties have argued that injury was not caused by dumped imports but rather by 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 these had on the Australian industry and separates and distinguishes the effects of these factors from the effects of dumping.

It is important to note that dumped exports need not be the sole cause of injury to the Australian industry for anti-dumping measures to be imposed. Other known factors that may be injuring the Australian industry at the same time as dumped imports are examined to ensure that injury caused by these other factors is not attributed to the dumped imports. Notwithstanding the materiality of other factors which might be causing injury to the Australian industry, Customs and Border Protection will assess whether the injury that can be attributed to the dumped imports is material.

Customs and Border Protection has sought to separate and distinguish the effects of the other known factors from the dumped imports by establishing a minimum unsuppressed selling price (USP). This is the minimum price that BlueScope could be expected to achieve in a market in which the same factors were at play but the imports against which it competed were undumped. This into-store price confronts the impact of dumped imports only and does not take account of the effects of other known factors.

The USP concept is typically used to derive the non-injurious price as part of the application of the lesser duty rule. However, in these circumstances Customs and Border Protection considers that the USP would be an effective instrument in assessing the materiality of the injury caused by dumping, whilst at the same time ensuring the non-attribution principle required by s.269TAE(2A).

Given that dumped imports have been found to have contributed to injury in each of the sectors where BlueScope's prices are based on import parity pricing, Customs and Border Protection considers that the minimum USP should reflect an undumped import parity into-store price. The following sections of the report examine each of the known other factors in light of the non-attribution requirements.

PUBLIC RECORD

8.10 Increased raw material costs

8.10.1 Submissions prior to the statement of essential facts

Several interested parties 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.

8.10.2 Submissions in response to the statement of essential facts

POSCO and GM Holden argue that there is insufficient assessment of the effect of increased raw material prices and therefore the assessment is unreliable and unreasonably denies interested parties the opportunity to question the assessment.

8.10.3 Customs and Border Protection's assessment

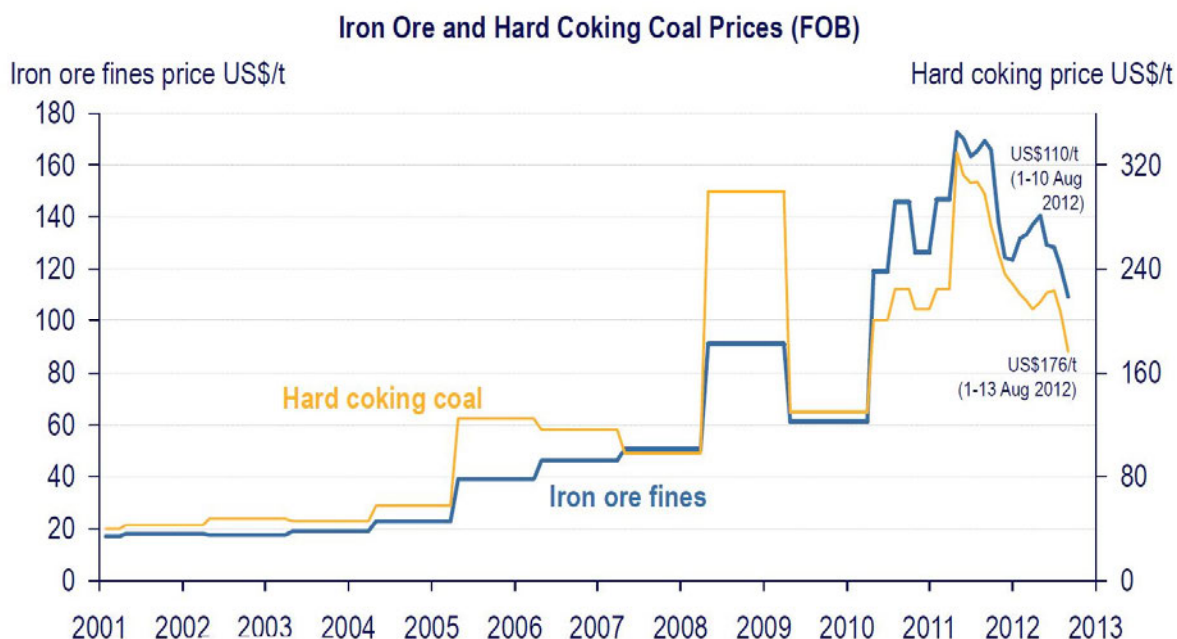
Customs and Border Protection has found that raw material costs in the manufacture of HRC increased in the investigation period and injury period. Paul O'Malley, BlueScope's Managing Director and CEO commented on the rising costs at BlueScope's 2011 AGM and stated that *'on the cost side, iron ore fines were up nearly 40% during FY2011 relative to FY2010 and hard coking coal was up nearly 70%'*¹⁵,

To demonstrate the effects of changes in raw material prices, BlueScope included the following chart in its 2012 full year results presentation¹⁶. The figures included in this chart are based on indicative or benchmark pricing, rather than BlueScope's actual purchases.

¹⁵ Paul O'Malley, BlueScope Managing Director and CEO, BlueScope AGM Update, ASX Media Release, 17 November 2011

¹⁶ FY2012 Financial Results Presentation, pg 31.

PUBLIC RECORD



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.

At Customs and Border Protection's verification visit to BlueScope, BlueScope's raw material input costs were verified. After interested parties raised issues regarding high raw material costs and the effect this had on the industry, Customs and Border Protection asked BlueScope to provide historical information regarding its coal and iron ore costs on a monthly basis over a two year period. Information from Customs and Border Protection's verification visit and the information subsequently provided by BlueScope were found to be similar to the costs shown in the above table and show that raw material prices were high in the investigation period.

Increases in raw material costs are not in and of themselves an independent cause of injury¹⁷. Movements in costs are a natural part of manufacturing, and under normal competitive conditions manufacturers would generally seek to adjust prices to compensate for the movement in costs. It is the factors that prevent manufacturers from raising prices in response to increased costs that causes injury.

Customs and Border Protection has found that the price of imports have determined the price at which the Australian industry could sell its HRC and it was the price of imports that prevent the Australian industry from raising its prices to recover costs.

¹⁷ World Trade Organisation, Panel Report, European Communities - Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India, 29 November 2002, paragraph 6.239.

PUBLIC RECORD

This is a classic example of a cost-price squeeze, that is, the effect of imports preventing price increases that would have otherwise occurred.

In any case, the minimum USP has isolated the effects of any raw material cost increases as it is not connected to BlueScope's production costs but rather based on undumped import prices.

The sections below examine the factors that impacted import prices and examines to what extent the price of imports can be attributed to dumping and to what extent it can be attributed to other factors.

8.11 Impact of currency fluctuations

8.11.1 Submissions prior to the statement of essential facts

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.

8.11.2 Submissions in response to the statement of essential facts

POSCO, GM Holden, Nippon Steel and CSC argue that Customs and Border Protection have not properly assessed the impact of fluctuating exchange rates and the injury this has caused BlueScope.

8.11.3 Customs and Border Protection's assessment

During the injury period, April 2008 to March 2012, significant variations occurred in the exchange rates between the United States dollar (USD), the currency in which exporters sell HRC, and the Australian dollar (AUD). Specifically the AUD has strengthened, increasing its buying power.

The increased value of the Australian dollar has contributed to cheaper into-store Australia dollar import prices (all other factors being equal). However, the effect of the strong Australian dollar can be distinguished from the effects of dumping. Regardless of what exchange rate is applicable, dumped imports will always be lower, by the dumping margin found, than they would have been in the absence of dumping.

Therefore, 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.

Customs and Border Protection has isolated the effects of currency fluctuations by basing its minimum USP on undumped prices denominated in the local currency of the exporting country and converted using the applicable Australian dollar exchange rate for the investigation period.

PUBLIC RECORD

8.12 Decrease in demand and low steel prices

8.12.1 Submissions prior to the statement of essential facts

Interested parties have argued that globally demand for steel has been low and it is the resulting low steel prices, rather than dumped imports, that have injured the Australian industry.

8.12.2 Submissions in response to the statement of essential facts

POSCO, GM Holden, Nippon Steel and CSC argued that Customs and Border Protection has not adequately undertaken an assessment of the degree of injury caused by low steel prices and decreased global demand.

8.12.3 Customs and Border Protection's assessment

As shown in chapter 6, 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.

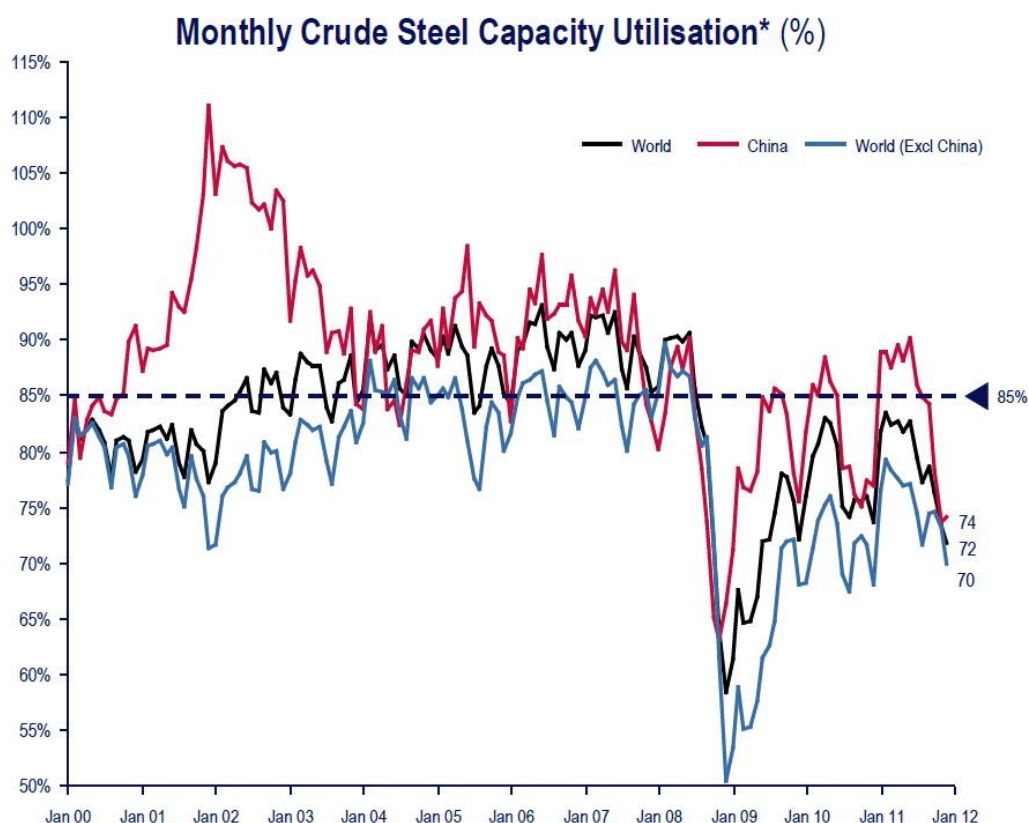
BlueScope has attributed some of the loss it made in 2011 to the weakened demand for steel. The global level of demand for steel can be demonstrated by measuring how much crude steel production capacity is being used. According to BlueScope, when global capacity usage is below 85%, demand is weak and prices are low. However, 85% capacity usage is a critical point at which pricing power may switch towards the steelmaker¹⁸. 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 capacity¹⁹:

¹⁸ First half FY2012 Financial Results Presentation, pg 8.

¹⁹ First half FY2012 Financial Results Presentation, pg 8.

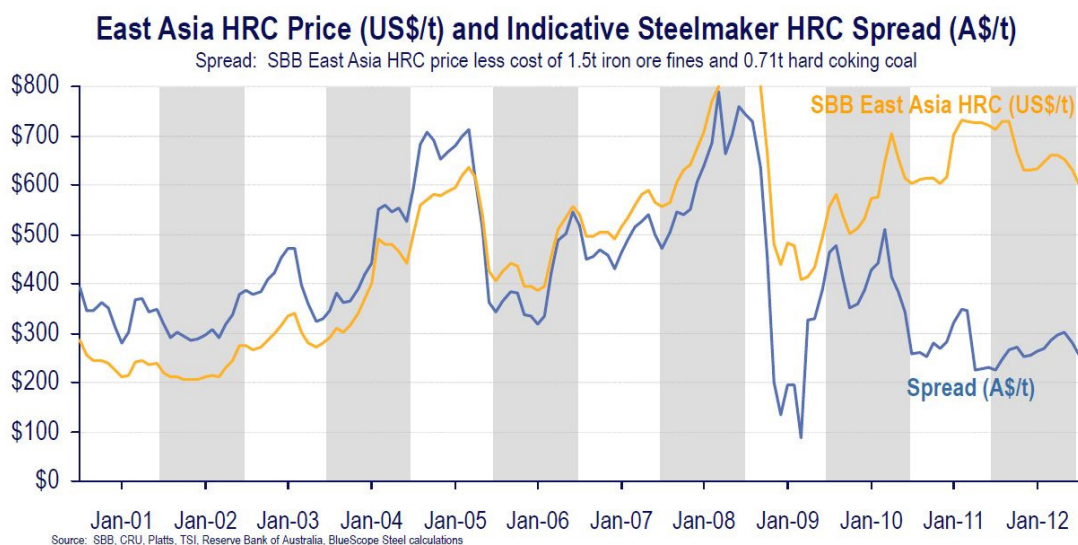
PUBLIC RECORD



The resulting low steel prices as a result of the low demand, coupled with the higher raw material prices caused a decreased spread (the spread being the difference between the raw material costs and price). BlueScope provided the following chart in its FY2012 results presentation, showing the East Asia price for HRC and the value of the spread over time²⁰:

²⁰ 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, 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.

PUBLIC RECORD

Given that the Australian market has been affected by globally depressed prices, it is necessary to separate these effects from the effects of dumping. Customs and Border Protection considers that the minimum USP, based on undumped HRC import prices, reflects globally depressed coil prices. Undumped prices reflect the price manufacturers in Japan, Korea, Malaysia and Taiwan are able to achieve in their own markets, taking into account competition from both other domestic manufacturers and imports.

The difference between BlueScope's historical HRC prices and what prices it could have achieved during the investigation period had imports been undumped reflects the impact of the globally depressed steel industry. However, imports into Australia from the nominated countries during the investigation period were found to be made at dumped prices. Exporters sold the HRC to Australia at prices below what they could achieve in their domestic markets. Therefore, dumping resulted in import prices below that achievable in a global market effected by low demand and depressed prices. The impact that dumping had on import prices is commensurate to the dumping margins found. As BlueScope set its prices on import parity pricing, these lower prices had a direct flow through effect to its revenue and profits.

These dumped prices prevented BlueScope from raising its prices at a time when raw material costs were increasing. Customs and Border Protection does not consider that the cost price ratio achieved by the industry should always be constant, but it should be able to raise prices to the extent that it can when competing with undumped imports. During the investigation, it was not able to do so due to the presence of dumped imports in the market.

Customs and Border Protection has also examined the effect that the local reduced demand for steel has had on prices. As shown in section 6.2, the Australian market has declined over the investigation period. However, this decline in market size does not detract from the finding that industry's prices are set according to import parity and as shown above, the import prices have been affected by dumping. Customs and Border Protection considers that the lack of demand may have affected the premium that industry can charge for its HRC in addition to the import parity price.

Several interested parties have raised issue with the notion that the industry can charge a premium to the imported product. The evidence collected by Customs and Border Protection in the course of the investigation shows that this premium is a commercial reality in the market. During the verification visit, BlueScope stated that it was unable to achieve the premium it had previously achieved and that it sought to achieve. However, a failure to achieve a specific premium cannot be linked to dumping, as dumping effects the import benchmark price rather than the premium applied. Rather, the failure to achieve a specific premium can be linked to the demand in the market and what price the market is willing to pay for the additional services the industry can offer, by virtue of being a local producer. Therefore, Customs and Border Protection does not consider that the premium levels reached, although lower than sought by the industry, can be attributed to the effects of dumped imports.

Customs and Border Protection has isolated the effects of globally depressed steel prices by basing its minimum USP on undumped prices with no adjustment to the level of premium achieved by the industry during the investigation period.

PUBLIC RECORD

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

8.13.1 Submissions prior to the statement of essential facts

Interested parties argued that management decisions made by BlueScope including the decision to close its export business and shut down various elements of its steel plant contributed to the injury suffered by BlueScope.

8.13.2 Submissions in response to the statement of essential facts

POSCO, GM Holden and CSC argue that the assessment of the effects of management decisions on the industry was inadequate and its impact has not been removed from the effects of dumping.

BlueScope argues that Customs and Border Protection's preliminary finding that its injury in regards to employment, wages and return on investment cannot be conclusively linked to dumping is incorrect.

8.13.3 Customs and Border Protection's assessment

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 business²¹.

In 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. Due to the impact of BlueScope's decision to close its export business and its subsequent restructure during the investigation period, Customs and Border Protection cannot inconclusively determine the effect of dumped imports on employment, wages and return on investment.

Interested parties argue that the restructure has injured 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

²¹ BlueScope Announced Major Restructure to Australian Operations and Reinforces Commitment to Steel Production in Australia, ASX Media Release, 22 August 2011

PUBLIC RECORD

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 decreased production volumes. However, when assessed over the course of the investigation period, the effect this has on costs is minimal (**confidential attachment 5** show the effect that this has had on price).

Nonetheless, Customs and Border Protection has sought to exclude the effects of the restructure. This is achieved by establishing a minimum USP based on undumped import prices and not based on BlueScope's costs.

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.

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 and implies that this may be a result of its drive to maintain market share at the expense of reduced prices, as it competed with dumped imports. This resulted in lost revenue, profits and profitability.

However that analysis is clouded by the varying grades of HRC and the differing characteristics of the market sectors into which it is sold. 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 directed²² that, while dumping need not be the sole cause of injury in order to impose measures, injury caused by other factors

²² Ministerial Direction on Material Injury 2012, 27 April 2012

PUBLIC RECORD

must not be attributed to dumping. Injury caused by dumping does not need to be the largest cause of injury to the industry but must be not immaterial, insubstantial or insignificant.

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.

In the investigation period, this benchmark was based on dumped prices, which accordingly lowered the level at which industry could set its prices regardless of other factors such as the strong Australian dollar or globally depressed steel 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. In order to assess the cumulative impact of dumping, Customs and Border Protection has calculated the weighted average dumping margin into each of the sectors in which BlueScope has suffered injury caused by dumping and uplifted BlueScope's price into that sector by the weighted average dumping margin found. Customs and Border Protection considers that the minimum injury caused by the cumulative effects of dumping can be seen in the difference between the uplifted price and the prices BlueScope achieved. The injury that can be attributed to dumping amounted to approximately 5% of BlueScope's total HRC revenue for external sales. Customs and Border Protection considers that lost revenue of 5% constitutes material injury caused by dumping.

In making this assessment, Customs and Border Protection has only taken into account injury and revenue in relation to external sales. This is because an assessment of BlueScope's internal transfers indicates that they are not arms-length sales and therefore unsuitable for assessing injury indicators associated with price effects. However, Customs and Border Protection has found that these transfers were based on market prices and followed the price trend of the wider HRC market. Accordingly, the price of these transfers was also impacted by the effects of dumped prices. If the revenue from these sales were also taken into account in an assessment of injury, the injury would be significantly larger.

8.15.1 Responses to the SEF

Several interested parties argue that injury caused by other factors have not been properly addressed or considered in the finding that dumping caused material injury

PUBLIC RECORD

and that Customs and Border Protection's approach as outlined above is simplistic and in violation of legislative requirements.

Specifically, Nippon Steel argues that Customs and Border Protection has not adhered to the requirements of the World Trade Organisation by not adequately separating, distinguishing and quantifying the effects of factors that have caused injury other than dumping, but rather assuming that these factors did not detract from a finding of dumping.

In making this assertion, Nippon Steel points to the findings made by the WTO Appellate Body in the US-Hot Rolled Steel case. This report states that

investigating authorities must make an appropriate assessment of the injury caused to the domestic industry by the other known factors, and they must separate and distinguish the injurious effects of the dumped imports from the injurious effects of those other factors. This requires a satisfactory explanation of the nature and extent of the injurious effects of the other factors, as distinguished from the injurious effects of the dumped imports.

However, the Appellate Body goes on to state that:

We emphasize that the particular methods and approaches by which WTO Members choose to carry out the process of separating and distinguishing the injurious effects of dumped imports from the injurious effects of the other known causal factors are not prescribed by the Anti-Dumping Agreement.

In essence, this means that while investigating administrations are required to 'separate' and 'distinguish' the effects of other facts from the effects of dumping, there is no required way this must be done.

As shown in section 7.10-7.14, Customs and Border Protection has separated the other factors that have caused injury to the Australian industry. In these circumstances Customs and Border Protection has chosen to isolate the effects of other known factors through the establishment of a minimum USP. This price reflects a minimum selling price that the industry could reasonably achieve in the market in the absence of dumped imports only. The price does not redress the effects of other known causes of injury that have occurred at the same time.

In this instance, Customs and Border Protection has determined the minimum USP to be the undumped price of imports into the market. This price only rectifies the effects of dumping and not the effects of other factors. The effects of rising raw material costs and increased costs due to the restructure are not factored in as the minimum USP is based on import prices, rather than using a cost plus profit method. It does not rectify the effects of the strong Australian dollar as the exchange rate applied to calculate the price is the actual rate of exchange that was applicable during the investigation period. It also does not compensate for the effect of globally depressed steel prices as the price is only adjusted for the dumping margin and the undumped price reflects a price achievable in the globally depressed market. This is demonstrated by the fact that this undumped price is essentially the normal value for HRC in the countries of export. It makes no adjustment to the premium the industry actually achieved during the investigation period, so it also does not redress the

PUBLIC RECORD

weakened demand for steel in Australia. Therefore, Customs and Border Protection is of the view that it has met its legislative requirements and separated the effects of dumping from the effects of other factors.

Interested parties have also argued that due to the import parity nature of BlueScope's pricing, it would be injured whenever the import price drops. While this is the case, as outlined above, Customs and Border Protection has differentiated the effects of dumping from the effects of other factors that have lowered the price.

CSC argues that an assessment of the revenue lost as a result of dumped imports only in relation to external sales of HRC does not represent the totality of the performance of the Australian HRC industry. Customs and Border Protection's assessment of revenue lost to dumped imports is in relation to external sales and does not take into consideration revenue or losses from internal transfers. It should be noted however, that if the revenue from these sales were also taken into account in an assessment of injury, the injury would be significantly larger, as the price of these sales are also based on market prices, reflective of the dumped prices.

PUBLIC RECORD

9 WILL DUMPING AND MATERIAL INJURY CONTINUE

9.1 Findings

Customs and Border Protection has found 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 2.6%- 15.4%.

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

Furthermore, the World Steel Association²³ considers that growth in steel demand will continue to be slow in the next year, with no indication that steel prices will increase. Given the capital intensive nature of steel manufacturing, Customs and Border Protection considers that exporters will seek to continue offering competitive prices for HRC at dumped levels 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 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.

²³ World Steel Association, 11.10.2012, World Steel Short Range Outlook, <http://www.worldsteel.org/media-centre/press-releases/2012/worldsteel-short-range-outlook.html>

PUBLIC RECORD

Based on the available evidence, Customs and Border Protection has found 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 APPLICATION OF THE LESSER DUTY RULE

10.1 Finding

Customs and Border Protection has found that for exports of pickled and oiled HRC from Japan, the non-injurious price is lower than the normal value. Therefore the lesser duty rule is given effect by imposing duty at an amount sufficient to remove the injury but less than the full margin of dumping.

For all other exports of HRC from the nominated countries, Customs and Border Protection has found that the non-injurious price is not lower than the normal value. As a result the lesser duty rule has no effect and duties are to be imposed at the full margin of dumping.

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.²⁴

The calculation of the non-injurious price 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 dumping²⁵.

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

The non-injurious price is generally derived 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.

²⁴ Subsection 8(5A) of the Tariff Act

²⁵ The non injurious price is defined in section 269TACA

PUBLIC RECORD

Having calculated the unsuppressed selling price, the non-injurious price is calculated by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

10.4 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 made prior to the SEF

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

OneSteel ATM submitted that this is 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 Submissions in response to the SEF

BlueScope argues that the method proposed by Customs and Border Protection to determine the unsuppressed selling price does not reflect an undumped price in the market.

JFE Steel, Kobe Steel and Nisshin Steel argue that there is no basis for the inclusion of an industry premium in the unsuppressed selling price.

10.7 Customs and Border Protection's assessment

Customs and Border Protection has firstly considered whether any of the preferred options for estimating the USP are appropriate in this case.

PUBLIC RECORD

Customs and Border Protection agrees with BlueScope that its historical prices are not a suitable measure of a price that could be achieved in a market unaffected by dumping. The reasons include:

- 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 and therefore prices in this period are not 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 and also are not reflective of prices in the current market.

Customs and Border Protection also considers that a constructed price based on BlueScope's production costs incurred during the investigation period plus an amount for profit is not appropriate. As noted at section 8.12 of this report, raw material prices for iron ore and coking coal experienced significant increases since 2008 and appeared to peak during the investigation period 1 April 2011 to 31 March 2012. As expected this has directly impacted BlueScope's production costs.

Given that BlueScope's pricing mechanism is based on import parity plus a local premium, it is questionable whether in a period of high raw material costs and imports at undumped prices, it could reasonably expect to achieved a price the reflects its costs of production plus a reasonable profit margin. A comparison of BlueScope's selling prices, its production costs and normal values adjusted to reflect into-store prices supports this view.

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 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.

In the absence of a suitable method for estimating the USP, Customs and Border Protection has considered an alternative approach to establishing non-injurious prices. 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.

Customs and Border Protection is of the view that in a market unaffected by dumping, it is reasonable to expect that BlueScope would continue to set its prices with regard to benchmarked import prices. In this case, as the price of imports would be higher at least by the dumping margins found, it would be expected that

PUBLIC RECORD

BlueScope's prices would also be higher at least by the percentage of the dumping margin's found.

Accordingly, Customs and Border Protection considers that the FOB non-injurious price for each exporter is a price equal to the respective normal value. This redresses the effects of dumping without redressing the effects of other factors.

In the case of exports to the automotive sector, Customs and Border Protection has 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 entirely to the automotive industry. Therefore, Customs and Border Protection considers it appropriate to establish a non-injurious price for pickled and oiled HRC exports from Japan using actual export prices found during 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.

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

PUBLIC RECORD

11 ANTI-DUMPING MEASURES

Customs and Border Protection recommends that the Minister publish a dumping duty notice in respect of HRC exported to Australia from Japan, Korea, Taiwan and Malaysia.

In considering the appropriate form that measures should take, Customs and Border Protection has had regard to the following factors:

- the price of hot-rolled coil steel is closely linked to the price for iron ore and coking coal, the two main raw material inputs to producing steel;
- iron ore and coking coal are commodities and their prices were volatile over the investigation period (1 April 2011 to 31 March 2012);
- iron ore and coking coal have fallen considerably in the 6 months since the end of the investigation period and this is reflected in lower global steel prices, and
- the volatility in raw material and HRC steel prices has resulted in export prices and normal values found during the investigation period being already out-dated.

Given the above factors, Customs and Border Protection considers that ad valorem duties (i.e. calculated as a percentage of the value of the goods) would be the most appropriate and effective measure to remedy the injurious effects of dumping. However Australia's current legislation does not provide for the imposition of ad valorem duties.

The Government's announced streamlining of the anti-dumping system recommended a more flexible approach to the form a duty can take, to increase the effectiveness of anti-dumping duties.

As an alternative, Customs and Border Protection is recommending that the proposed duties to be imposed on HRC include both fixed and variable duty components. This would be the combination of:

- a fixed proportional rate of duty calculated as a percentage of either the actual export price or the export price as ascertained by the Minister, whichever is the greater;
- a variable component of duty calculated as the difference between the actual export price and the export price as ascertained by the Minister.

The fixed proportional rates of duty recommended for HRC exports from Korea, Malaysia, Taiwan and dry HRC from Japan are linked to the full margin of dumping in the case of all exporters. The fixed rate takes the form of a percentage of the export price of each importation.

The ascertained export price is generally taken to be the weighted average export price over the investigation period. However to address the impact of changes in raw material input prices on steel prices, Customs and Border Protection has recommended that the Minister ascertain contemporary export prices. These

PUBLIC RECORD

ascertained export prices have been calculated by indexing export prices found during the investigation to account for movements in regional HRC prices up until October 2012. This reflects the most current market conditions for HRC. Should these conditions change, interested parties may apply for a review of measures 12 months after the publication of a dumping duty notice.

Customs and Border Protection considers that due to the significant movements that have occurred in the raw material costs for HRC as reflected in the corresponding movement in prices, that to set measures according to the export prices found during the investigation period would remedy more than the effects of dumping, as these prices are no longer relevant in the market. Accordingly, to set measures based on these out-dated export prices would unfairly impact the large number of downstream manufacturers who use HRC as an input.

Customs and Border Protection does not consider that this approach mitigates the measures, as importers are still required to pay duties on imports of HRC reflective of the dumping margins found and the new ascertained export price. It merely removes a floor price for HRC into Australia that has little relevance to the market.

For pickled and oiled HRC exports from Japan that were found to have not contributed to the material injury suffered by the Australian industry, Customs and Border Protection recommends that the Minister have regard to the desirability of fixing a lesser amount of duty. In this case, it is recommended that the ascertained export price be set equal to the ascertained non-injurious price to ensure a zero rate of fixed duty.

As with all other HRC exports, the ascertained export price has been calculated by reference to the export prices found during the investigation period and indexed for movements in regional HRC prices in the six month period following the end of the investigation period.

PUBLIC RECORD

12 PUBLIC INTEREST

12.1 Public interest submissions

Customs and Border Protection has undertaken to highlight in this final report to the Minister all submissions lodged during the investigation that raise matters relevant to the consideration of public interest in the decision whether or not to impose anti-dumping and countervailing measures.

The following interested parties lodged submissions that contained points related to considerations of the public interest in imposing anti-dumping and countervailing measures:

- A.D. Coote and Co
- Australian Steel Association Inc
- Dematic Pty Ltd
- Ford Motor Company of Australia Limited
- GM Holden Limited
- OneSteel Australian Tube Mills Pty Ltd
- POSCO
- Tokyo Boeki (Australia) Pty. Ltd.
- Toyota Motor Corporation Australia Limited
- Toyota Tsusho (Australasia) Pty. Ltd.

These interested parties represent HRC distributors, manufactures that use HRC as an input to production and HRC importers.

These submissions generally claimed that imposition of dumping duties would disadvantage downstream industries. They outline that any measures imposed on HRC would adversely impact downstream industries, including downstream automotive, pipe and tube and general steel manufacturers.

Public interest submissions note generally that all aspects of the steel industry are feeling pressure as a result of low demand and increased cost of production. Some downstream manufacturers outlined that in addition to these general market pressures, they are also feeling price pressure from imports of low cost finished products. These submissions outline that an increase in a base material cost such as HRC may make their manufacturing businesses uncompetitive against imported finished goods in the current market.

Additionally, some submissions have outlined that the imposition of duties may force manufacturers to adapt its business away from manufacturing to importing of finished products, or to move its manufacturing operations offshore. In either event, downstream industries have advised that this could result in job losses in the manufacturing sector and the closure of some businesses. Submissions from the automotive industry in particular have outlined the impact on both car manufacturers and local component suppliers.

PUBLIC RECORD

13 RECOMMENDATIONS

The delegate is satisfied that the dumping of imports of HRC exported to Australia from Japan, Korea, Malaysia and Taiwan caused material injury to the Australian industry producing like goods. The delegate recommends that the Minister impose anti-dumping measures on HRC exported to Australia from Japan, Korea, Malaysia and Taiwan.

The delegate recommends the Minister be satisfied:

- in accordance with s.269TG(1) the amount of the export price of HRC that has been exported to Australia from Japan, Korea, Malaysia and Taiwan is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused;
- in accordance with s.269TG(2) the amount of the export price of HRC already exported to Australia from Japan, Korea, Malaysia and Taiwan is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia from Japan, Korea, Malaysia and Taiwan in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused.

The delegate recommends the Minister determine:

- in accordance with s.269TAB(1)(c) the export prices for indirect sales of HRC exported by POSCO and Hyundai Co., Ltd be calculated having regard to all the circumstances of the exportation;
- in accordance with s.269TAB(3) the export prices for non-cooperating exporters from Japan, Korea, Malaysia and Taiwan be determined having regard to all relevant information;
- in accordance with s.269TAC(6) the normal values for non-cooperating exporters from Japan, Korea, Malaysia and Taiwan be determined having regard to all relevant information;
- in accordance with s.269TACB(2)(a) by comparison of the weighted average of export prices during the investigation period and the weighted average of normal values during that period, that exports of HRC from Japan, Korea, Malaysia and Taiwan were dumped.

The delegate recommends the Minister direct:

- in accordance with s.269TAC(8), the price paid or payable for like goods sold by POSCO, Hyundai Co., Ltd, Megasteel Sdn. Bhd., China Steel Corporation, Chung Hung Steel Corporation and Shang Chen Steel Corporation be taken to be such a price adjusted for differences between domestic and export sales to ensure a fair comparison;
- that the element of interim dumping duty payable on HRC the subject of the dumping notices be ascertained as a proportion of the export price.

The delegate recommends the Minister compare:

PUBLIC RECORD

- in accordance with s.269TACB(2)(a), the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The delegate recommends the Minister declare:

- in accordance with s.269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to:
 - the goods exported by all exporters from Japan, Korea, Malaysia and Taiwan to the extent permitted by s.269TN; and
 - like goods that were exported to Australia by all exporters from Japan, Korea, Malaysia and Taiwan after the CEO made a PAD under s.269TD on 5 October 2012 but before publication of the notice, to the extent permitted by s.269TN.
- in accordance with s.269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from Japan, Korea, Malaysia and Taiwan after the date of publication of the notice.

PUBLIC RECORD**14 ATTACHMENTS**

Confidential Attachment 1	Market assessment
Confidential Attachment 2	Dumping calculations
Confidential Attachment 3	Macro assessment
Confidential Attachment 4	Assessment by market sector
Confidential Attachment 5	Effect of restructure on costs
Confidential Appendix 1	Schedules
Confidential Appendix 2	Notices