



Australian Government
Australian Customs and
Border Protection Service

INVESTIGATIONS INTO THE ALLEGED DUMPING AND SUBSIDISATION OF HOT ROLLED PLATE STEEL

EXPORTED FROM

**THE PEOPLE'S REPUBLIC OF CHINA, THE
REPUBLIC OF INDONESIA, JAPAN,
THE REPUBLIC OF KOREA AND TAIWAN**

IMPORTER VISIT REPORT

THE VULCAN GROUP

PUBLIC RECORD VERSION

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

April 2013

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2 PURPOSE AND BACKGROUND

2.1 The application

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

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

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

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

On 12 February 2013, following consideration of the application, the Chief Executive Officer of Customs and Border Protection (the CEO) decided not to reject the application and initiated investigations into the alleged dumping of plate steel from China, Indonesia, Japan, Korea and Taiwan, and the subsidisation of plate steel from China.

Public notifications of initiation of the investigations were published in *The Australian* on 12 February 2013.

Australian Customs Dumping Notice No. 2013/18 provides further details of the investigations and is available at www.customs.gov.au.

2.2 Previous anti-dumping investigations

On 25 March 2004, the Minister for Justice and Customs published a dumping duty notice under s.269TG(2) of the *Customs Act 1901*¹ (the Act), imposing dumping measures on certain plate steel exported to Australia from China, Indonesia, Japan and Korea with the exclusion of one Korean exporter and two Indonesian exporters. The measures took effect on 2 April 2004.

Following a review by the Trade Measures Review Officer (TMRO), the Minister for Justice and Customs requested CEO to reinvestigate the findings in relation to that investigation (contained in Report No. 76).

¹ Herein all references to legislation in this report refer to the *Customs Act 1901*, unless otherwise specified

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

The measures resulting from the above investigation expired on 2 April 2009.

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

2.3 Background to meeting

Following the initiation of the investigations, a search of Customs and Border Protection's import database indicated that Vulcan Steel Pty Ltd (Vulcan Australia) imported the goods under investigation from Japan during the period 1 January - 31 December 2012 (the investigation period).

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

Vulcan Australia completed the importer questionnaire, providing details regarding the company, overseas supplier information, imports, and importation and selling expenses.

Limited information was supplied in relation to Australian sales of plate steel due to the fact that Vulcan Australia does not 'sell' its imported plate steel (transferred to the related PCD Steel Processing (Qld) Pty Ltd (PCD) which then processes the plate into other items/components). See Section 4.4 for further discussion of this process.

The meeting included discussion of the operations of both Vulcan Australia, its parent company Vulcan Steel Limited (Vulcan Limited), and PCD, and was attended by parties that represented all three entities.

Where the discussion in this report relates to these three entities collectively, they have been referred to as the 'Vulcan Group'.

A copy of Part A (company and supplier details) of the Vulcan Australia importer questionnaire response is at **Confidential Attachment 1**.

2.4 Purpose of meeting

The purpose of this visit was to:

- confirm that Vulcan Australia was a major importer of plate steel and obtain information to assist in establishing the identities of the exporters

of the goods (note that it is considered that Vulcan Limited is in fact the importer of the plate steel and not Vulcan Australia – see Section 7.1 for further discussion);

- verify information on imports of plate steel to assist in the determination of export prices from Japan;
- establish whether the export purchases were arms-length transactions;
- establish post exportation costs incurred in importing;
- recommend how export price may be determined under section 269TAB of the Act²; and
- provide Vulcan Australia with an opportunity to discuss any issues relevant to the investigations.

Prior to the meeting, Customs and Border Protection forwarded an agenda to Vulcan Australia, and advised that we would require supporting documentation in relation to the consignments selected by Customs and Border Protection (see Chapter 6).

A copy of the visit agenda is at **Confidential Attachment 2**.

2.5 Visit

Details of the visit were as follows:

Address:	30 Union Cct. Yatala, QLD
Telephone no:	(07) 3441 4400
Visit date:	Wednesday 27 March 2013
Present at the visit	
Vulcan Group	Mr Adrian Casey, Director Mr Russell Kroon, Manager
Customs and Border Protection	Ms Andrea Stone, Manager Operations 3 Ms Rebecca Oliver, Supervisor Operations 3

During the meeting, we provided the Vulcan Group with general background on the anti-dumping investigation and reporting process, as well as discussion about the Australian anti-dumping system in general.

We provided an outline of the key dates of the investigation and other important matters of note as follows.

- The investigation period is 1 January 2012 to 31 December 2013;
- Customs and Border Protection will examine the Australian market from 1 January 2008 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) that there appears to be sufficient grounds for the ultimate publication of a dumping duty and/or

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

countervailing duty notice may be made no earlier than 3 April 2013 (after day 60 from the date of initiations);

- Provisional measures (in the form of documentary 'securities') may be imposed at the time of a PAD or at any time after a PAD has been made, if it is considered necessary to take these securities to prevent injury to the Australian industry occurring while the investigation progresses.
- A statement of essential facts (SEF) for respective investigations will be placed on the public record by 3 June 2013 or such later date as the Minister allows. This SEF will set out the material findings of fact on which Customs and Border Protection intends to base its recommendations to the Minister and will invite interested parties to respond, within 20 days, to the issues raised (submissions received in response to the SEF will be considered when compiling the report and recommendations to the Minister).
- Customs and Border Protection's final report and recommendations to the Minister is due by 17 July 2013, unless an extension to the SEF or the final report is approved by the Minister.
- The Minister will have 30 days from the date of receipt of the final report to make a final decision.
- Throughout the investigation, non-confidential submissions from interested parties and visit reports (industry, importer and exporter) will be placed on the public file and the electronic public file accessible via Customs and Border Protection's website. The case number for viewing relevant public documents on the electronic public record is case number 198.
- Following the meeting, we will prepare a visit report containing a record of the discussions held during the meeting and containing our analysis. This report would be prepared in a 'For Official Use Only'³ or confidential version. The Vulcan Group would be given an opportunity to review the visit report and analysis for accuracy and confidentiality, and a non-confidential version of the report would be prepared in consultation with the Vulcan Group for placement on the public record.

The Vulcan Group should also be aware of the fact that certain interested parties have the right to seek a review to the TMRO in relation to various decisions that may be made by the Minister or CEO in relation to the investigations.

The verification team drew the Vulcan Group's attention to the Australian Customs Dumping Notice (ACDN) 2012/02 that describes the operation of goods in transit and the operation of securities. A brief description of the contents of that ACDN was also provided.

The Vulcan Group were co-operative and had the required documentation available for the meeting.

³ Which replaces the previously used security classification of "Confidential".

3 THE GOODS

3.1 Description

The imported goods the subject of the application (the goods) are flat rolled products of:

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

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

Goods excluded from the application are:

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

3.1.1 Product information

The goods are generically called hot rolled plate steel, plate steel, coil plate steel, or Q&T green feed.

Trade or further generic names often used to describe these goods include:

- “XLERPLATE” steel;
- “XLERPLATE LITE” steel;
- Plate;
- Pattern Plate;
- Coil Plate;
- Checker Plate;
- Floor Plate;
- Q&T Green Feed.

BlueScope has submitted that the standard dimensions of imported plate product ranges within 1500mm to 3200mm in width, 5mm to 250mm in thickness and 6 to 12 metres in length.

Imported non-alloy plate steel product is most commonly offered in nominal yield strengths of 250 MPa and 350 MPa, depending on application and end use.

Imported alloy plate steel product grades that are made by BlueScope and also imported into Australia are generically called Q&T Green Feed.

Green Feed is supplied only in non heat-treated condition (ie the heat treatment process to achieve the higher hardenability is undertaken by BlueScope's customer(s)). Q&T Green Feed steel grades possess a higher hardenability, which (on heat treating) results in higher strength and hardness properties over 250 MPa and 350 MPa non-alloy steel grades. To achieve this higher hardenability, additional specific alloys are added during the steelmaking process (i.e. thereby incurring a higher cost of production).

Q&T Green Feed grades of steel have chemical compositions that typically fall within the following range:

- Carbon Max – 0.40%
- Manganese Max – 1.6%
- Silicon Max – 0.65%
- Sulphur Max – 0.035%
- Phosphorous Max – 0.035%
- Nickel Max – 2.5%
- Chrome Max – 2.0%
- Molybdenum Max – 1.0%
- Vanadium Max – 0.15%
- Boron Max – 0.006%.

The percentage of individual alloying elements will vary in accordance with each manufacturer's grade specifications and not all elements may be utilised in all Q&T Green Feed steel grades.

Q&T Green Feed products are normally "negotiated mill to customer" chemistry grades of plate steel.

3.1.2 Tariff classification

The application stated that plate steel is classified to the following tariff subheadings:

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

For tariff subheadings:

- 7208.40.00 statistical code 39;
- 7208.51.00 statistical code 40; and
- 7208.52.00 statistical code 41

the general rate of duty is currently 5 per cent for goods imported from Japan and free for imports from China, Indonesia, Korea and Taiwan.

For goods imported under the tariff subheading 7225.40.00 statistical codes 22 and 24, the general rate of duty for goods imported from Japan, Korea and Taiwan is 5 per cent and 4 per cent for imports from China and Indonesia.

3.1.3 Tariff concession orders

There are several tariff concession orders (TCO) applicable to tariff subheadings that the goods fall under.

4 COMPANY DETAILS

4.1 Commercial operations

4.1.1 Organisational structure of the group

Vulcan Limited is a New Zealand-based limited liability company.

Vulcan Australia is an Australian-based wholly-owned subsidiary of Vulcan Limited.

PCD is an Australian-based wholly owned subsidiary of Vulcan Australia.

Vulcan Australia advised that is also related to steel distributor Horan Steel which also imports a range of steel products including plate steel. Vulcan further explained that Horan is a separate legal entity in which Vulcan has a shareholding. Horan has an independent CEO who reports to a board. Vulcan has 2 seats on the board and is not involved in the day to day management of the business. It is treated as an independent investment with no impact on the operations of PCD Steel.

4.1.2 Functions of company

Vulcan Australia advised that it operates throughout Australia as a distributor and merchandiser of steel products, sourced from imports and local production.

Vulcan Australia provided Customs and Border Protection with a copy of its company brochure, which provides an overview of the company and its functions (refer to **Confidential Attachment 3**).

This brochure outlines the Vulcan Group's functions as:

- distribution;
- plate processing;
- coil processing; and
- long product cutting.

It is understood that the Vulcan Group's steel distribution activities in Australia are performed both by Vulcan Australia itself and Horan Steel (individually Vulcan's relationship with Horan is an investor).

The Vulcan Group provides plate cutting services through PCD. PCD is a plate processing service provider, cutting plate steel into various sizes and shapes to meet customer requirements.

Vulcan Australia stated that it imports and locally sources various steel products and sells these on the Australian market, including small-sized plate steel (which Vulcan Australia advised is not within the goods description).

Vulcan Australia advised that all of the plate steel that it imports itself that fits within the description of the goods is on behalf of PCD. PCD then processes this plate steel and sells it on the Australian market (i.e. not in the form it was imported).

Vulcan Australia advised that this arrangement (importing effectively on behalf of PCD) is in place because PCD is too small of a company to be able to import plate steel in its own right (i.e. have an account with the steel producer).

It is understood that Vulcan Australia does not sell (i.e. through its distribution centers) plate steel that meets the description of the goods on the Australian market (either sourced locally or from imports). However, Vulcan advised that it does not sell plate steel sourced from Japan through its distribution centers. Vulcan has sold plate steel within the goods description via its distribution centers but this plate steel is sourced via other importers or from local sources.

This report focuses on Vulcan Australia as an importer in its own right, and hence plate steel that is directly imported by the Vulcan Group. Customs and Border Protection's commercial database does not indicate that the Vulcan Group directly imported any other plate steel during the investigation period.

4.1.3 Product range

As discussed above, the Vulcan Group imports, purchases domestically, and sells a range of steel products.

In terms of plate steel, Vulcan Australia imports a range of plate steel that it supplies directly to PCD for further processing. Vulcan Australia advised that PCD makes domestic purchases of plate steel from BlueScope for its own consumption.

During the investigation period, Vulcan Australia's imports of plate steel included the following:

- plate steel made to grade 250 or grade 350 (grade refers to yield strength) which are made to either the 1996 or 2011 AS/NZ 3678 standard (the goods);
- Q&T plate steel (referred to as HITEN 780S), and
- Q&T abrasion resistant plate steel (in grades C400, C450, EH400, EH450 or EH500).

Vulcan Australia stated that it only imports plate steel made from steel slabs (i.e. not made from hot rolled coil), and its imports have a thickness range between 6 - 100 mm, width between 2.4mm - 3.7mm and between 6 to 12 meters in length.

Vulcan Australia advised that it purchased all of its imports of plate steel from JFE Steel Corporation (JFE Steel) in Japan via JFE Steel's related trading company JFE Shoji Trade Corporation (JFE Shoji).

Vulcan Australia advised that the Q&T steel plate it imported was heated treated and is not captured within the goods description.

Vulcan Australia further advised that both the high tensile plate steel and the abrasion resistant plate steel with grades equal to or greater than 400 are heated treated Q&T (also not within the goods description).

To confirm this, Vulcan Australia provided inspection certificates in respect of its HITEN 780 grade and 450 abrasion resistant plate steel, see **Confidential Attachment 4**.

In addition, Vulcan Australia presented a technical document that demonstrated that HITEN 780 and grade 450 abrasion resistant steel plate are heat treated, a copy of this document is included in **Confidential Attachment 4**.

We are satisfied that Vulcan Australia has demonstrated that HITEN 780 and grade 450 abrasion resistant steel plate are not the goods.

4.1.4 Like goods

Vulcan Australia advised that it considers the range of plate steel produced by BlueScope in Australia is like to imports (indeed, Vulcan Australia advised that they purchase a significant quantity of its requirements of plate steel from BlueScope).

Vulcan Australia advised that grades 250 and 350 plate steel are globally standard, and are treated as a commodity. Consequently, grade 250 and 350 plate steel that is imported is considered by Vulcan Australia to be equivalent to BlueScope plate steel in these grades.

Vulcan Australia noted that JFE Steel produces plate steel in lengths and widths that BlueScope does not produce. Following the verification meeting Customs and Border Protection provided Vulcan Australia with an overview of the exemption provisions that may be applicable in this situation.

4.2 Accounting

Vulcan Australia advised that its parent company, Vulcan Limited, undertakes many of the tasks associated with importing the plate steel on behalf of Vulcan Australia, including purchasing the goods.

Vulcan Australia provided an overview of its accounting structure between Vulcan Limited, Vulcan Australia and PCD, in relation to the purchase and transfer of the goods (refer to **Confidential Attachment 5**).

In summary:

- Vulcan Limited pays the supplier and commission invoices;
- Vulcan Limited then processes an intercompany proforma invoice from Vulcan Limited to Vulcan Australia;

- Vulcan Australia pays this intercompany invoice for the supplier charges plus any other costs involved in importing the goods including freight and clearing costs,
- Vulcan Australia charges PCD by proforma intercompany sales docket for the cost of the goods plus all importation charges, and
- on receipt of the goods PCD pays for the goods plus all importation charges and GST via intercompany transfer.

4.3 Relationship with suppliers

As discussed above, all plate steel imported directly by Vulcan Australia⁴ during the investigation period was manufactured by JFE Steel, and supplied via JFE Shoji.

Vulcan Australia advised that the Vulcan Group:

- has no ownership interest in, and no relationship other than an arm's length commercial relationship with JFE Steel or JFE Shoji; and
- there were no discounts or rebates applicable to purchase of goods from the above supplier during the investigation period, the invoiced price is the actual price paid.

We found no evidence of any discounts or rebates being provided to the Vulcan Group by its supplier or related trading company during our verification with Vulcan Australia.

Customs and Border Protection noted that, within its commercial database for imports of plate steel by Vulcan Australia, the supplier was identified as Vulcan Limited.

It is considered that this is likely due to the fact that Vulcan Limited (based in New Zealand) pays JFE Shoji for the goods directly, and then issues an invoice to Vulcan, and this is the invoice used by Vulcan's customs agent when entering the goods (i.e. the agent therefore enters Vulcan Limited as the 'supplier' of the goods).

Customs and Border Protection is satisfied that, although Vulcan Limited is listed as the supplier in its commercial database, Vulcan Australia's supplier of plate steel subject to this report is in fact JFE Steel (via JFE Shoji).

For further discussion and verification of this matter refer to Section 6.3.1.

4.4 Relationship with customers

As discussed above, Vulcan Australia only supplies the goods imported from JFE Steel to PCD for PCD's internal consumption, Vulcan Australia does not supply plate steel that it has directly imported to any other entity than PCD.

⁴ Noting that Vulcan Limited and not Vulcan itself is considered to be the importer for the purposes of this investigation (see Chapter 7)

Vulcan Australia advised that plate steel imported on behalf of PCD is 'transferred' rather than sold to PCD. Vulcan Australia advised that PCD pays Vulcan Australia via intercompany transfer for the cost of the goods, export agent's commission and all importation and delivery charges (i.e. PCD pays a free into store price). Vulcan Australia advised that it does not add any profit to the amount charged to PCD.

For these reasons, we do not consider that this transaction in fact a 'sale' of the goods but rather a 'transfer'.

During the verification, we requested Vulcan Australia to provide evidence of the value of the intercompany transfers for the goods imported during the investigation period.

Vulcan Australia provided the intercompany proforma invoices to PCD for these goods. These invoices provided a breakdown of all charges, which included Vulcan Limited's invoice for the goods, commission, letter of credit fees, customs entry and broker charges, transport, storage, overseas freight and inland freight.

Vulcan Australia also provided general ledger statements evidencing the transfer of these amounts from PCD, these documents form **Confidential Attachment 6**.

Given the related nature of these transactions, including the fact that the transfers are made without an amount for profit, we consider the price paid between Vulcan Australia and PCD is not suitable for use in the price undercutting analysis, or as a potential basis for calculating deductive export prices (noting also that PCD is an associate of Vulcan Australia).

We also note that, as PCD further processes the steel plate that is transferred to it by Vulcan Australia for sale as components and parts to various customers, the sale of the processed plate steel from PCD to its customers is also likely to be unsuitable for use in calculating deductive export prices (noting that it is not sold in the form it was imported), or for use in price injury analysis.

We have therefore not obtained detailed sales information from PCD of its processed plate steel, or any data relating to their costs or profit.

5 AUSTRALIAN MARKET

5.1 General

Vulcan Australia observed that the plate steel market in Australia is experiencing an overall downturn, noting that there is less demand for plate steel now than during the global financial crisis.

Vulcan Australia considered that this downturn of the market can be attributed to declines in construction, the mining sector and general construction. Vulcan Australia also commented that international shipping building has slowed and this has result in global oversupply of plate steel.

5.2 Distribution and selling

Vulcan Australia emphasised that it is not operating as a distributor of the plate steel it imports directly, instead it imports a small volume only for the internal consumption of PCD, whose finished products do not compete with BlueScope's plate steel.

As discussed previously, PCD purchases a significant quantity of its plate steel requirement from BlueScope. Vulcan Australia explained that in the past, at times of high demand, Vulcan had been refused supply of plate steel from BlueScope. Vulcan Australia explained that this has contributed to the Vulcan Group's strategy to seek and maintain an alternative supply source in the form of imports from Japan to ensure continuity of supply.

Vulcan Australia commented that it is difficult to directly access plate steel from the BlueScope mill and instead BlueScope directs sales through its distribution business (BlueScope Distribution) which is a direct competitor of PCD. Vulcan Australia explained that by leveraging its purchasing power as a group (particularly the New Zealand side of the business) it has recently been able to purchase directly from the BlueScope mill.

5.3 Australian sales/transfers

5.3.1 Ordering and supply process

As the relationship between PCD and Vulcan Australia is not a traditional buyer/seller relationship, the ordering and supply process for the plate steel subject to this report is not a typical offer/purchase order/sales contract one seen with many other Australian purchasers of imported plate steel.

Based on PCD's historical monthly consumption data, Vulcan Australia assesses its monthly ordering requirement of imported plate steel and communicates this to Vulcan Limited. Vulcan Limited then arranges for the purchase and supply of the plate steel from JFE Shoji (see Section 6.2 below).

The payment and invoicing process for these goods between Vulcan Limited, Vulcan Australia and PCD is also discussed at Section 4.2.

5.3.2 Sales/transfer verification

Please refer to Section 4.4 for discussion of verification of the transfer price between Vulcan Australia and PCD.

6 IMPORTS

6.1 Volume of trade

As discussed, Customs and Border Protection provided Vulcan Australia with a download from its commercial database of all of that company's imports of plate steel under the relevant tariff subheadings from the countries under investigation.

Within this download, Customs and Border Protection selected several shipments for further verification with Vulcan Australia.

In its response to the Importer Questionnaire, Vulcan Australia provided Customs and Border Protection importation details for all shipments of plate steel it imported during the investigation period, identified by ship name (i.e. for all shipments (12 in total), not only the selected shipments). This detail forms Vulcan Australia's response to Part B – 'importer transaction form', refer to **Confidential Attachment 7**.

A copy of the commercial database download forms **Confidential Attachment 8**.

As discussed in Section 6.3 below, using provided source documents, we verified the accuracy of the data in the commercial database listing to the information provided in the importer transaction form, and then to the data contained within the commercial database download.

We note that Customs and Border Protection's commercial database download shows that Vulcan Australia imported [REDACTED] tonnes of plate steel during the investigation period from Japan.

As noted above Vulcan Australia advised that some of the goods it imported as plate steel were not the goods.

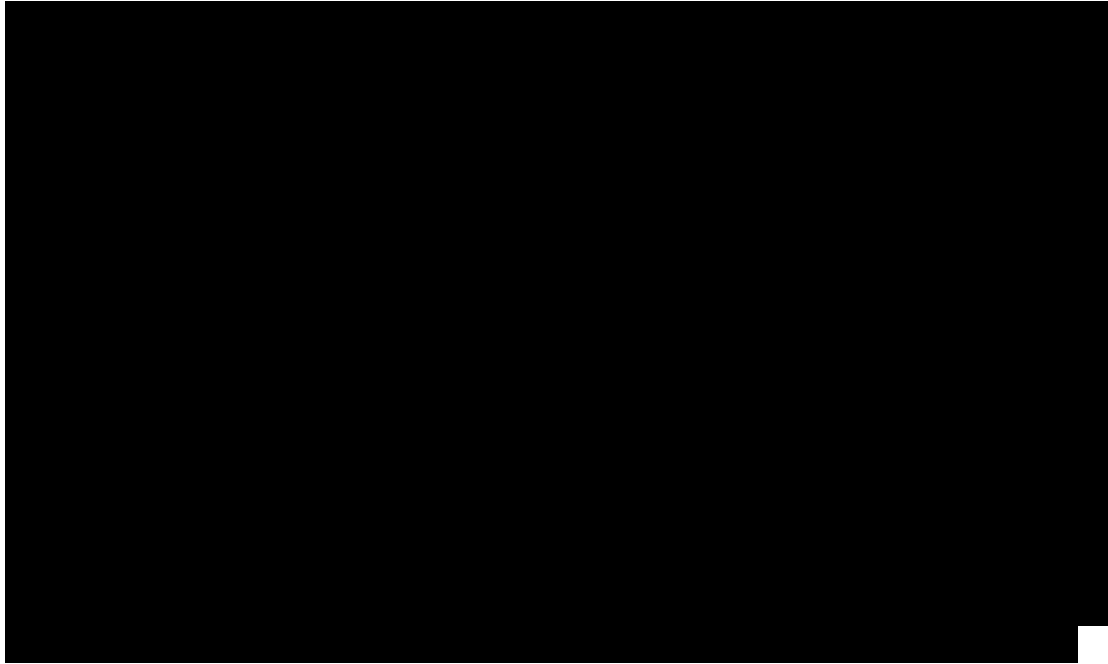
Vulcan Australia's importer transaction form identified that of this volume [REDACTED] tonnes were not the goods (see section 4.1.3 for further discussion). Customs and Border Protection further satisfied that the supplier's invoices detail the grade of plate steel such that plate steel which is not the goods can be isolated from the volume of the goods under consideration.

This leaves a total import volume of [REDACTED] tonnes during the investigation period.

6.2 Ordering and supply

Vulcan Australia advised that its ordering process for the goods is generally as follows.

[REDACTED]



[Confidential ordering and supply process]

6.3 Verification of imports

Vulcan Australia provided source documents to verify the data in its 'importer transaction form' for all shipments of plate steel during the investigation period (**Confidential Attachment 9**).

These source documents included the relevant:

- order confirmation from JFE Shoji;
- commercial invoice from JFE Shoji to Vulcan Limited and evidence of payment;
- certificate of origin evidencing manufacturer as JFE Steel;
- bill of lading;
- overseas shipping invoice (inclusive of wharfage, harbour dues, port service charge, delivery and port security);
- evidence of customs duty;
- invoice for customs duties and broker charges;
- invoice for overseas agent's commission;
- invoice for inland delivery;
- Vulcan Limited's proforma invoice to Vulcan Australia; and
- evidence of intercompany transfer for the purchase of the goods between Vulcan Australia and its related company PCD (discussed in Section 4.4 and attached as Confidential Attachment 6).

6.3.1 Supplier invoice details

We matched the invoice price, volume and supplier details for each shipment on the importer transaction form to the supplier invoices (i.e. invoices between JFE Shoji and Vulcan Limited).

We also matched the letter of credit and bank statements evidencing payment of these invoices, this evidence forms part of Confidential Attachment 9.

Invoices from JFE Shoji to Vulcan Limited were in US\$.

We observed that the AU\$ invoiced amount stated in the importer transaction form reflected the AU\$ invoiced amount between Vulcan Limited and Vulcan.

We matched the invoice price in AU\$, volume and supplier details for the invoices from Vulcan Limited to Vulcan Australia to the importer transaction form, and to the data contained in Customs and Border Protection's commercial database.

We noted that the shipment identified as 'Miho' did not have an accompanying invoice from Vulcan Limited or an AU\$ amount reported in the importer transaction form. Customs and Border Protection has excluded this shipment from its analysis of export prices in AU\$ as detailed in section 6.4.

We identified one shipment (Marsgracht) in the importer transaction form that did not have a reported AU\$ invoice amount in the transaction form, using the invoice between Vulcan Limited and Vulcan Australia for this shipment, Customs and Border Protection amended the importer transaction form to include the AU\$ amount as stated on this invoice.

We confirmed that the shipments were invoiced at [REDACTED] shipping terms and had credit terms of [REDACTED]

6.3.2 Shipment costs

Under the heading of 'Shipment Costs' in the importer transaction form, Vulcan Australia entered amounts for overseas freight and marine insurance separately.

Ocean freight and associated charges

For the 12 shipments in the importer transaction form, the Vulcan Group used the services of one shipping provider for 11 of the shipments, and another for the remaining shipment.

For 10 of the 11 shipments where the main provider was used, the ocean freight invoice provided by Vulcan Australia included wharfage, harbour dues, port service charges, delivery and port security charges (each of these costs was separately identified on the freight invoice).

Vulcan Australia's importer transaction form combined overseas freight with these other importation charges in the overseas freight line.

For the purposes of calculating ocean freight and importation costs as an average cost per tonne for each item (see tables below), Customs and Border Protection has amended Vulcan Australia's importer transaction form to separate out freight and other importation costs. Importation costs are discussed separately in Section 6.3.3 below.

One of the 11 shipments (Matsusaka) was missing its freight invoice. The volume and associated freight cost of this shipment has been excluded from the average ocean freight cost calculation below because importation costs included in the ocean freight line could not be identified and isolated. Customs and Border Protection considers that although this piece of evidence is missing because Vulcan Australia provided details for every shipment the volume of evidence provides a reasonable basis to calculate average ocean freight costs.

For the remaining shipment (Marsgracht), a different shipping company was used, this company provided a separate ocean freight invoice and invoice for importation costs. The freight invoice in respect this shipment was in US\$, to calculate an AU\$ costs, Customs and Border Protection has used the reported freight cost in AU\$ from its commercial database record for this shipment.

Marine insurance

Vulcan Australia explained that it calculated the rate for marine insurance by firstly identifying its annual marine insurance premium for Vulcan Limited, for all products.

Vulcan Australia then estimated the value of goods insured and used this ratio to calculate a per tonne marine insurance cost, which was then converted from NZ\$ to AU\$.

We explored with the Vulcan Group other potential methods to more accurately calculate this marine insurance amount, but were satisfied that due to limitations with the group's records, this method was the most reasonable way in which to calculate this cost.

Vulcan Australia provided a copy of its marine insurance policy, see **Confidential Attachment 10**.

Vulcan Australia's marine insurance calculation forms **Confidential Attachment 11**.

Using the data submitted by Vulcan Australia in its importer transaction form, and verified with the company, we have calculated weighted average ocean freight and marine insurance amounts in the below table.

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

Total		
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6.3.3 Importation costs

As discussed in section 6.3.2, Customs and Border Protection identified importation costs as part of Vulcan Australia's ocean freight invoice; these costs include wharfage, harbour dues, port service charges, delivery charges at the wharf and port security charges. Customs and Border Protection separated these charges from the ocean freight cost and reported them under the heading 'Australian Importation Costs' in the importer transaction form. In addition, to the importation charges listed above Vulcan Australia identified and entered amounts in the importer transaction form for customs entry fees and duty, customs broker fees and inland freight to its customer.

We compared the importation costs provided in the relevant invoices to the importer transaction form. Some minor discrepancies were found (which related to reporting a cost inclusive of GST, Customs and Border Protection analyse is based on GST exclusive costs) and the data reported in the importer transaction form was adjusted accordingly.

Two of the shipments (Matsumae and Matsushima) were missing their respective customs broker invoice. The volume and associated customs broker charges for these shipments have been excluded from the average customs broker charges calculation below. Customs and Border Protection considers that although this evidence is missing because Vulcan Australia provided details for every shipment the volume of evidence provides a reasonable basis to calculate average customs broker charges.

As mentioned in section 6.3.2 the shipment Matsusaka was missing its freight invoice, this invoice included other importation charges. Because these importations charges were not able to be identified for this shipment, importation charges for this shipment have been excluded from the average importation charges calculations below.

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

Item	Average cost AU\$/T
Total	

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

Vulcan Australia explained that it calculated its selling, general and administration (SG&A) by first identifying the total annual SG&A cost for Vulcan Limited (Vulcan Limited undertakes most of the administrative tasks associated with importing the goods).

Vulcan Australia then estimated the number of hours of work associated with importing plate steel for Vulcan Australia, to arrive at a total SG&A cost for Vulcan Australia's importations of plate steel.

This figure was then divided by the total tonnes imported during the investigation period to arrive at an SG&A cost of \$[REDACTED] per tonne.

Vulcan Australia's SG&A calculations form **Confidential Attachment 12**.

Vulcan Australia also reported a commission charge under the heading 'Selling, general and administrative' costs in the importer transaction form.

Vulcan Australia explained that this cost is reflective of actual amount charged by the brokerage agent as evidenced by invoices in respect of each shipment.

Commission was charged in US\$ and reported the importer transaction form in US\$. Customs and Border Protection calculated an exchange rate difference (US\$ to AU\$) for each shipment by comparing the US\$ invoice amount from JFE Shoji to Vulcan Limited and the invoice between Vulcan Limited and Vulcan Australia in AU\$ and adjusted the importer transaction form accordingly.

Evidence of the brokerage agent's commission charges forms part of Confidential Attachment 9.

Using the data in the importer transaction form, we calculated weighted average SG&A costs (inclusive of commission) as [REDACTED]

6.4 Export prices for selected shipments

Based on verification of all shipments (except shipment 'Miho' refer to section 6.1), we calculated weighted average FAS export price (in AU\$) by grade for the goods over the investigation period (i.e. excluding imports of plate steel identified as not being the goods as discussed throughout this report)..

These calculations are summarised in the below table.

Plate Steel	Total
Grade 250	[REDACTED]
Grade 250/350	
Grade 350	
Total weighted average export price	[REDACTED]

7 WHO IS THE IMPORTER AND EXPORTER

7.1 Who is the importer?

We have reviewed the importation process and have noted that, for imports from JFE Steel via JFE Shoji, Vulcan Limited (NZ):

- negotiates directly with the supplier;
- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading;
- arranges and pays for ocean freight and marine insurance;
- has an insurable interest in the goods while they are on the water;
- arranges Customs clearance, logistics and storage of the goods after they delivered to the Australian port;
- retains ownership of the goods until they are delivered to PCD; and
- bears the risk of its customers defaulting on purchase agreements until the time the product hits the wharf.

We consider Vulcan Limited (and not Vulcan Australia, the Australian-based entity) to be the beneficial owner of the goods at the time of importation and therefore the importer of the goods.

7.2 Who is the exporter?

Customs and Border Protection will generally identify the exporter as:

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

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

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

Therefore, depending on the facts, Customs and Border Protection considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge

that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.

Subject to further inquiries, we are satisfied that although goods were purchased through a related trading company, JFE Steel likely can be considered the exporter of plate steel imported by Vulcan Limited. To our knowledge, this entity is the principle in the country of export, manufactured the goods, and gave up the goods for shipment directly to Australia.

8 ARMS LENGTH TRANSACTIONS

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

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

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

As discussed above, Vulcan Australia's only customer⁵, PCD, is a related subsidiary of the Vulcan Australia. We consider that the price paid by PCD is influenced by this commercial relationship it has with Vulcan Australia, evidenced by the fact that Vulcan Australia does not charge PCD any profit on the goods.

Consequently, we consider that the sales between Vulcan Australia and PCD are not an arm's length transactions.

During our examination of the shipments we did not find any evidence, in respect of the purchase of plate steel from the exporter, that:

- there is any consideration payable other than price;
- the price was influenced by the commercial relationship between Vulcan Limited and JFE Steel or JFE Shoji; and
- subsequent to the purchase, Vulcan Limited received or will receive a benefit in respect of any part of the price.

We are satisfied that transactions between Vulcan Limited and JFE Steel are arm's length transactions.

⁵ Or entity that the goods are supplied to as it is not considered a 'sale' of the goods.

9 GENERAL COMMENTS

During the verification visit Vulcan Australia made a number of statements, asserting that its imports were not causing injury to the Australian industry.

Vulcan Australia asserted that it imports only from JFE Steel (it does not consider purchasing from other mills to get a better price) which has reputation for quality, and is difficult mill to get access to. Vulcan Australia is of the opinion that JFE Steel, given its prices and that it is providing only a limited supply to Australia, is not dumping plate steel.

Vulcan Australia further emphasised that its imports are consumed by its related company, PCD, and manufactured into products which are not in competition with BlueScope's plate steel. Vulcan Australia considers that its small volume of imports which are not sold directly into the market cannot be causing injury to the Australian industry.

Vulcan Australia acknowledged that there is a global oversupply of plate steel, and there may be some distributors who are unscrupulously selling plate steel into the Australian market.

Vulcan Australia requested that given its unique circumstances (i.e. that its imports of plate steel are not going directly into the Australian market) its imports should be exempt from any potential duties on the basis that they could not be causing injury to the Australian industry.

10 RECOMMENDATIONS

From our investigations with Vulcan Australia, we are of the opinion that, for the goods imported by Vulcan Limited from JFE Steel:

- the goods have been exported to Australia otherwise than by the importer, Vulcan Limited; and
- the purchases of the goods by the importer were arm's length transactions.

However, we consider that the goods have not been purchased by the importer from the exporter, as they are not purchased by the importer (Vulcan Limited) directly from the exporter (JFE Steel) but rather via a third party (JFE Shoji).

Subject to further inquiries, we recommend that the export price for plate steel imported by Vulcan Limited from JFE Steel should be established under s.269TAB(1)(c) of the Act.

Subject to further investigations, having considered the relationships between the parties and the details of the export transaction, we consider that this may be done using the FAS invoiced price between JFE Shoji and Vulcan Limited, less additions to the free on board (FOB) level as required.

11 LIST OF ATTACHMENTS

Confidential Attachment 1	Part A – Importer Questionnaire Response
Confidential Attachment 2	Verification visit agenda
Confidential Attachment 3	Vulcan Group company brochure
Confidential Attachment 4	Inspection certificates
Confidential Attachment 5	Summary of accounting structure
Confidential Attachment 6	Intercompany proforma invoices
Confidential Attachment 7	Importer transaction form
Confidential Attachment 8	Customs commercial database download
Confidential Attachment 9	Supporting documents for all shipments
Confidential Attachment 10	Marine insurance policy
Confidential Attachment 11	Marine insurance calculations
Confidential Attachment 12	SG&A calculations