



Australian Government

Australian Customs and  
Border Protection Service

PUBLIC FILE

223

## INVESTIGATION

**ALLEGED DUMPING OF CERTAIN HOLLOW  
STRUCTURAL SECTIONS (HSS) EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA (CHINA), THE  
REPUBLIC OF KOREA (KOREA), MALAYSIA, TAIWAN  
AND THE KINGDOM OF THAILAND (THAILAND)**

**AND**

**ALLEGED SUBSIDISATION OF HSS EXPORTED  
FROM CHINA**

**VISIT REPORT - IMPORTER**

**CMC (AUSTRALIA) PTY LTD**

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

January 2012

**1 TABLE OF CONTENTS**

1	TABLE OF CONTENTS .....	2
2	PURPOSE AND BACKGROUND .....	3
2.1	Background to the investigation .....	3
2.2	Purpose of meeting .....	3
2.3	Meeting.....	4
2.4	Documents provided by CMC.....	5
3	THE GOODS .....	7
3.1	Description.....	7
3.2	Tariff classification.....	8
4	COMPANY DETAILS .....	9
4.1	Commercial operations .....	9
4.2	Accounting.....	11
4.3	Relationship with suppliers .....	11
4.4	Relationship with customers.....	12
5	AUSTRALIAN MARKET .....	14
5.1	General.....	14
5.2	Distribution and selling .....	14
5.3	CMC's sales .....	15
6	IMPORTS .....	20
6.1	Volume of trade .....	20
6.2	Ordering.....	21
6.3	Verification of imports .....	22
6.4	Export prices for selected shipments .....	25
7	WHO IS THE IMPORTER AND EXPORTER .....	27
7.1	Who is the importer? .....	27
7.2	Who is the exporter? .....	27
8	ARMS LENGTH TRANSACTIONS .....	29
9	GENERAL COMMENTS .....	30
10	RECOMMENDATIONS .....	31
10.1	Alpine, Saha Thai and Shin Yang Steel .....	31
10.2	Shanghai Minmetals, Beijing Jinghua ,Kingdoo and Minmetals.....	31
11	LIST OF ATTACHMENTS .....	32

## 2 PURPOSE AND BACKGROUND

### 2.1 Background to the investigation

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

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

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

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

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

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

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

### 2.2 Purpose of meeting

The purpose of this visit was to:

- confirm that CMC is the importer of HSS attributed to it within the commercial database and obtain information to assist in establishing the identity of the exporter(s) of this HSS;

- verify information on imports of HSS to assist in the determination of export prices;
- establish whether the purchases of HSS by CMC was in arms length transactions;
- establish post-exportation costs incurred by CMC in importing HSS;
- identify CMC's sales and customers and verify sales volume, selling prices and selling costs;
- recommend how export price for importations of HSS by CMC may be determined under s. 269TAB of the Customs Act 1901 (the Act)<sup>1</sup>; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

During its previous involvement in Customs and Border Protection's investigations into HSS, CMC has been visited and undergone verification of data submitted to Customs and Border Protection (most recently in January 2009).

## 2.3 Meeting

### 2.3.1 Introduction

At the meeting, we gave a general outline of the investigative process and reporting timeframes as follows.

- The investigation period is 1 July 2010 to 30 June 2011.
- The injury analysis period is from 1 July 2007 for the purpose of analysing the condition of the Australian industry.
- We advised CMC that a preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (18 November 2011) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

Customs and Border Protection will not make a PAD until (and if) it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice.

This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 7 January 2011, or such later date as the Minister allows under s.269ZHI of the Act.

The 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 therein.

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

- Following receipt and consideration of submissions made in response to the SEF, Customs and Border Protection will provide its final report and recommendations to the Minister.

This final report is due no later than 21 February 2012, unless an extension to the SEF is approved by the Minister.

Aware of CMC's familiarity with the verification and visit report process, having been visited by Customs and Border Protection previously, we briefly explained to the company that we would prepare a report of our visit (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We noted that, in consultation with CMC, we would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

Prior to the meeting, we forwarded an agenda to CMC. A copy of the agenda is at **Confidential Attachment 2**.

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

### 2.3.2 Meeting details

<b>Company</b>	CMC Pty Ltd Level 3, 430 Forest Road. Hurstville NSW 2220
<b>Date of visit</b>	27 October 2011

The following were present at various stages of the meetings.

<b>CMC</b>	Mr Andrew Loughnan, General Manager - Operations and Business Development Mr Stephen Pearson, Director of Corporate Development, Asia and Australia Mrs Aata Rifai, Business Services Representative
<b>Howard Consulting</b>	Mr Merton (Jack) Howard
<b>Australian Steel Association</b>	Mr David Birrell, CEO
<b>Customs and Border Protection</b>	Ms Andrea Stone, Manager Operations 3 Ms Rebecca Higgins, Supervisor Operations 3

## 2.4 Documents provided by CMC

As part of the Importer Questionnaire, Customs and Border Protection provided CMC a copy of a download from the Customs and Border Protection commercial database for all potential importations of HSS during the investigation period, and selected 12 shipments from this listing for further examination and verification with CMC.

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

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

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

In addition, as Part C of its response to the Importer Questionnaire, CMC provided a complete transaction by transaction list of its sales of HSS for the investigation period. This forms **Confidential Attachment 5**.

The listing includes the product code, quantity, invoice value and customer for each transaction.

Following the verification visit, CMC forwarded a revised sales listing to include details of order confirmation date for each sale, this is included at Confidential Attachment 5. We note that this sales listing appears to be for more than HSS alone (potentially for all CMC's tubular products), as the total sales revenue recorded in the original Part C sales listing accounts for only █% of the total sales revenue in the revised sales listing, and further (apparently non-HSS) product types are noted.

Within the visit agenda, we requested CMC prepare and supply supporting documentation (invoices and proof of payment) for ten sampled sales selected from CMC's response to Part C of the Importer Questionnaire. CMC provided these documents, which form **Confidential Attachment 6**.

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

**3 THE GOODS****3.1 Description**

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

*certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.*

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

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

**Finishing**

All HSS regardless of finish is included in the application.

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

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

**Standards**

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

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

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

**Excluded goods**

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

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);
- precision RHS with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes to AS.2556.

### 3.2 Tariff classification

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

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

The goods exported to Australia:

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

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



**4 COMPANY DETAILS**215 PUBLIC  
FILE**4.1 Commercial operations****4.1.1 Organisational structure of the group**

CMC is a fully owned subsidiary of Commercial Metals Company Ltd (CMC USA), a United States company listed on the New York Stock Exchange.

CMC USA is involved in metals manufacturing, recycling and trading (marketing and distribution). CMC USA also has offices in Hong Kong, Singapore, and Guangzhou.

CMC explained that it is a holding company that comes under the marketing and distribution division of CMC USA, and has two subsidiaries/divisions:

- CMC Steel Trading; and
- CMC Cometals (supplier of industrial products).

Additionally, CMC Coil Steels Group Pty Ltd (CMC Coil Steels, a steel distributor), another company within the CMC group, operates within Australia.

CMC advised that it recently acquired a [REDACTED] ownership in [REDACTED]

[REDACTED] [confidential – ownership of related company details],

CMC maintains warehouses in Newcastle, Brisbane and Melbourne close to their respective ports.

**4.1.2 Functions of company**

CMC is an importer and wholesaler of steel products.

CMC:

- makes offers to Australian customers;
- negotiates with overseas suppliers;
- arranges importation of goods; and
- sells and arranges the delivery delivers of goods to its Australian customers under agreed credit terms.

CMC also offers various services to its customers within Australia. CMC's website ([www.cmc.com/cmcau](http://www.cmc.com/cmcau)) identifies CMC as offering:

*logistics and warehousing services to our global customers which include quality control, inventory control, just-in-time deliveries, consignments and other "tailor-made" supply chain services*

and

## PUBLIC RECORD

*...evaluation of supplier quality, bulk shipping, container shipping, customs clearance, transport to your location, Australia wide distribution, technical support, and mill communication.*



CMC explained that the warehousing services provided are generally used by its larger customers, and are subject to agreed holding charges.

CMC explained that most of its imported product is pre-sold to customers, explaining that for the goods, around █% of imported product was contractually pre-sold to its customers.

CMC explained that the balance of its sales (i.e. not pre-sold) is generally sold on the water. CMC explained this often occurs when it purchases more than its requirements due to production quantities and schedules of its international suppliers (e.g. CMC's customer orders a certain quantity but the mill's production run for that product is larger than the customer's requirements, but CMC purchases the entire production run).

### 4.1.3 Product range

Under the CMC Steel Trading division, CMC imports and sells a range of steel products. These products are categorised into either 'flat' or 'long' products.

'Flat' products include hot-rolled coil, cold-rolled coil and galvanised coil. 'Long' products include:

- tubular goods (HSS and other non-HSS pipe and tube e.g. line pipe, seamless pipe and pipe and tube that falls outside the description of the goods);
- reinforcing steel (e.g. reinforcing bar and wire rods);
- structural and merchant bars (e.g. H beams and angles);
- strand and wire products; and
- special bar (carbon bar and alloy bar).

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

CMC advised that its RHS range can meet the Australian Standard AS1163 (structural HSS), but that it also imports product to Australian Standard AS1074 (non-structural HSS).

### 4.1.4 Like goods

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

However, CMC advised that it does not consider that HDG HSS (which is almost always CHS) should be considered collectively with other finishes of HSS.

CMC stressed that HDG is coated with a thicker galvanised coating than pre-galvanised HSS and is therefore suitable to be fully exposed to the elements (e.g. in fencing, gates, signs). CMC observed that pre-galvanised and in-line galvanised HSS (such as ATM's Supagal and Duragal) are not substitutes for HDG, which has the highest anti-corrosive properties.

CMC observed that HDG CHS is commonly used in non-structural applications.

CMC stated that, to its knowledge, no Australian industry member currently manufactures HDG, noting that ATM had mothballed its HDG plant in Acacia Ridge in August 2011 (its only operational HDG plant prior to this mothballing). CMC noted that ATM also sources its HDG CHS from Vietnam and has exclusive access to a major mill there.

CMC also highlighted that there is a functional divide between CHS and SHS/RHS, being used for different purposes.

#### **4.2 Accounting**

CMC advised that its financial year ends 31 August, in line with that of its US-based parent company, and that its accounts are audited annually.

At the verification, CMC provided its audited financial statements for the year ending 31 August 2010, which were audited by Deloitte Touche Tohmatsu (**Confidential Attachment 7**).

We note that, within these FY2010 audited accounts, the auditor gave an unqualified opinion that CMC's accounts:

- (a) gave a true and fair view of the company's and consolidated entity's financial position as at 31 August 2010; and
- (b) complied with the relevant Australian Accounting Standards and with the requirements of the *Corporations Regulations 2001*.

CMC confirmed that it uses an accounting package called 'Navision', and the Microsoft-based enterprise resource planning (ERP) system. CMC advised that 'Navision' is a fully-integrated system that handles logistics, inventory, foreign exchange, and pre-costing.

CMC advised that each product group within the CMC Steel Trading division, including tubular products (HSS-inclusive), is a separate profit centre.

#### **4.3 Relationship with suppliers**

CMC confirmed that it purchased HSS from the following suppliers during the investigation period:

PUBLIC RECORD

PUBLIC  
FILE  
212

- [REDACTED] HSS manufacturer;
- [REDACTED] HSS manufacturer;
- [REDACTED] HSS manufacturer;
- [REDACTED] HSS trader;
- [REDACTED] HSS trader;
- [REDACTED] HSS trader; and
- [REDACTED] HSS trader.

[Confidential – supplier details]

CMC advised that:

- it has no ownership interest in ,and no relationship other than an arms length commercial relationship with any of the abovementioned suppliers; and
- there were no discounts or rebates applicable to purchase of goods from any of the above suppliers during the investigation period.

At the verification, CMC provided a [REDACTED], which summarised the volume of CMC's purchases from each of the above HSS suppliers (**Confidential Attachment 8**).

CMC advised that during the investigation period it received no discounts or rebates from its suppliers and that the invoiced price is the actual money price paid.

We found no evidence of any discounts or rebates being provided to CMC by any of its suppliers during our verification with CMC.

**4.4 Relationship with customers**

Among CMC's major customers are:

[REDACTED]  
[Confidential – customer details]

As mentioned above, CMC holds a [REDACTED] % ownership interest in

[REDACTED]  
[confidential – ownership in related company].

**PUBLIC RECORD**

Furthermore, as noted above, CMC holds a 100% ownership interest in Coil Steels.

CMC PUBLIC  
211 FILE

CMC advised that there were no rebates or discounts payable to any of its Australian customers during the investigation period, and that the invoice price between itself and its customers was the price paid. We found no evidence of any such rebates or discounts during our investigations with CMC.

CMC advised that, even after acquiring [REDACTED], its relationship with this customer remains unchanged, and is still a commercial relationship whereby selling prices to [REDACTED] are not affected by the legal relationship.

CMC advised that [REDACTED] is a successful business and it has been left to continue its operations without interference by CMC following its acquisition.

We undertook an analysis of CMC's sales to related vs unrelated parties and found that the average unit selling price to related parties was comparable and not significantly different to the overall average unit selling price for all other customers. We consider these sales to related parties suitable for use in price undercutting analysis.

**5 AUSTRALIAN MARKET****5.1 General**

CMC discussed the Australian HSS market generally, observing that ATM are the price leader in the Australian market.

CMC observed that ATM prices are comparatively high to imports, but that ATM is able to attract a local 'premium', primarily due to their relatively short lead times compared to imported HSS (at the importer/Australian industry level).

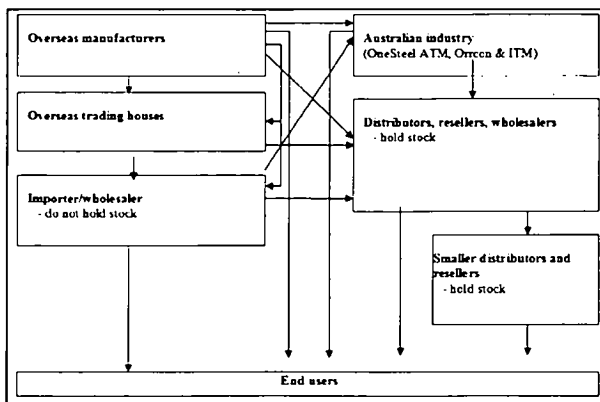
CMC stated that the HSS market globally and in Australia has experienced a significant contraction of the market since the global financial crisis (GFC). This is the result of diminished demand, particularly from the construction sector, and a lack of market confidence.

CMC considered that there has been no real recovery in the HSS market following the GFC, particularly due to its links with the housing construction sector, which remains deflated. However, CMC observed that the rural segment of the market has been strong over recent years.

CMC observed that there has been a marked increase in fabricated products that contain HSS being imported to Australia, at the expense of local HSS manufacturers, HSS importers, and local HSS distributors and fabricators. CMC noted that ATM had imposed a blanket 18% price increase earlier in 2011, which evidences their market dominance. CMC advised that the ASA would supply a further submission and evidence on this point.

**5.2 Distribution and selling**

We provided CMC with the below diagram that has been used to represent the Australian HSS distribution system.



CMC agreed that the diagram broadly represents the distribution channels in the Australian market.

CMC identified itself as an importer/wholesaler in this diagram.

CMC outlined that ATM sells almost exclusively to large distributors that have a relationship with ATM (i.e. are 'franchised' with ATM), and does not directly supply smaller distributors.

CMC observed that some large HSS distributors, resellers and wholesalers, as well as smaller distributors and resellers are thus unable to access ATM's HSS directly from ATM, but would have to access it through ATM-franchised distributors (alternatively, they are able to directly access imported HSS from CMC and other importers and therefore do not have to pay the distributors' margin). CMC observed that this should be taken into account when making price comparisons.

CMC noted that its related steel distributor, CMC Coil Steels, has been able to secure a franchise arrangement with ATM, but that this has only occurred recently, after some time of working to develop a franchised relationship with ATM. CMC advised that this relationship is governed by strict rules outlined by ATM.

CMC outlined that it will sell HSS to anyone who has high enough quantity requirements (including OneSteel Distribution).

CMC observed that the ASA would be making a further submission in relation to the Australian market and distribution channels for HSS.

**5.3 CMC's sales**

**5.3.1 Ordering and sales process**

CMC advised that its decision on where to source HSS at any one time is based on the offer price from the mill, lead time and reliability of supply. CMC advised that its usual ordering and sales process for the goods is as follows:

- [REDACTED]
- [REDACTED]

Within the source document bundles provided by CMC for the 12 selected importations within the importer transaction form (Confidential Attachment 4), [REDACTED]

• [REDACTED]

[REDACTED]

[REDACTED]

[Confidential – details of ordering and sales process].

CMC advised that it does not have traditional 'price lists', but that its price lists are effectively the monthly offers it releases to the market.

We observed within CMC's Part C sales listing (in Confidential Attachment 5) that CMC's terms to its Australian customers are generally free-into-store (FIS), with some sales at free-on-truck (FOT).

We note that some sales (listed as either [REDACTED], or to [REDACTED]) were listed as being at cost, insurance and freight terms (CIF). We consider this indicates that occasionally, some of CMC's customers arrange customs clearance and post-importation activities/charges for their shipments.

We observed that credit terms to CMC's Australian customers include:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**5.3.2 Date of sale**

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



CMC stated that the lead time between order date and fulfilment (and invoice) date by supplier, and the fulfilment CMC's order (and invoicing) to its customer can be several months.

Consequently, CMC considered that the order confirmation date should be considered by Customs and Border Protection to be the actual date of sale.

We observed that the detailed sales listing provided by CMC as Part C of its response to the importer questionnaire did not include information regarding CMC's date of order for the listed sales of HSS, and requested that CMC provide an updated sales listing including date of order to enable this comparison.

Following the visit, CMC provided a revised detailed sales listing including the date of order for each sales line (which forms part of Confidential Attachment 5). As mentioned previously, we observed that this sales listing was not only for HSS, comparing it to the previously-submitted Part C sales listing.

In any case, we calculated within this revised sales listing that that the average time between order date and invoice date to CMC's customers for recorded sales was around [REDACTED].

We compared the invoice date to CMC's Australian customers with the order confirmation date between CMC and its mill (which we understand would be the same as or within a few days of the confirmation date between CMC and its customer) for the 12 selected transactions (see Section 6.3 for a discussion of our verification of the importer transaction form data). We noted an average delay of approximately [REDACTED] between order confirmation between CMC and its mill and CMC's date and invoicing its Australian customers.

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

### 5.3.3 Forward orders

CMC's Importer Questionnaire response indicated that there were a number of relevant forward orders.

CMC supplied supporting documents in respect of 3 selected forward orders. These supporting documents form **Confidential Attachment 9**.

### 5.3.4 Sales verification

#### Accuracy – verification to source documents

As discussed at Section 2.4, CMC provided:

- source documents for 12 selected shipments detailed within its importer transaction form, which included CMC's invoices to its Australian customers (within Confidential Attachment 4); and

- invoices and proof of payment (in the form of remittance advices and bank statement extracts) for ten sales selected by Customs and Border Protection from CMC's sales listing (Confidential Attachment 5).

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

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

#### Completeness and relevance – verification to CMC's accounts

We requested CMC provide us with documents to conduct an upwards reconciliation of CMC's original (HSS-only) Part C sales listing submitted in response to the Importer Questionnaire (in Confidential Attachment 5).

CMC provided company-wide profit and loss statements for the FY2010 and FY2011, as well as month to date profit and loss statements for each month of the investigation period (**Confidential Attachment 10**).

We observed that CMC's profit and loss statements do not differentiate sales by product or departments and therefore were not able to accurately verify CMC's HSS sales listing to its management accounts.

To perform a further completeness and relevance test, we compared the volume of sales in CMC's original Part C sales listing with the volume of imports as recorded in Customs and Border Protection's commercial database.

We noted an acceptable variance in between these reported volumes which is likely to be due to timing differences between the commercial database and CMC's invoice date (which the sales listing was limited to).

We are therefore satisfied that CMC's sales listing is a reasonably complete and relevant list of all of CMC's sales of HSS over the investigation period.

#### **5.3.5 Profitability of sales**

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

This displayed that [REDACTED]. The range of profit for the selected transactions was calculated as between [REDACTED] % [confidential – profit achieved].

We observed that the [REDACTED] sales were for products sourced from different suppliers and sold to different Australian customers.

**PUBLIC RECORD**

205 PUBLIC  
FILE

We observed that overall, the shipments were

 [confidential – profit achieved].

**6 IMPORTS**

**6.1 Volume of trade**

Following CMC's response to Part A of the Importer Questionnaire, Customs and Border Protection provided CMC a download from its commercial database of all imports of goods under the relevant tariff subheadings from the countries under investigation, made by CMC during the investigation period.

We asked CMC to confirm whether the imported goods listed within this download were the goods (HSS).

In its response to the Importer Questionnaire, CMC identified that all but two importations in this listing were HSS. We queried this with CMC, which advised that this was incorrectly reported in its response, and that all importations identified within Customs and Border Protection's download are the goods.

As discussed in Section 0 below, we verified the accuracy of the data in the commercial database listing for 12 selected shipments in the importer transaction form (selected on the basis of their spread across the investigation period, their size and product type).

In performing this task with CMC, it was observed that for one selected shipment (Shipment 10 – customs entry [REDACTED]) the volume of the imported HSS was incorrectly recorded within the commercial database ([REDACTED]).

We corrected this error within the commercial database download. In doing so, we identified 2 further line entries where this error appears to have occurred (all within shipment [REDACTED]).

After making these corrections, we note that the commercial database download shows that CMC imported [REDACTED] metric tonnes of HSS during the investigation period.

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

Country	Main supplier	Quantity (T)
China	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]

PUBLIC RECORD

203 PUBLIC FILE

Thailand	[REDACTED]	[REDACTED]
Malaysia	[REDACTED]	[REDACTED]
Taiwan	[REDACTED]	[REDACTED]
<b>TOTAL</b>		[REDACTED]

After performing these checks and minor corrections, we are satisfied that total tonnes and Customs value in the commercial database correspond with the suppliers' invoices.

We note that the data reported in the commercial database does not provide sufficient detail to identify the imported HSS by finish, and hence calculations to this level cannot be readily undertaken with this data. However, we have calculated weighted average export prices by month using this data.

Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

A copy of the corrected commercial database download forms **Confidential Attachment 11**.

**6.2 Ordering**

CMC advised that its ordering process for the goods, is generally as follows.

[REDACTED]

**Error! Reference source not found.**

[REDACTED]

- CMC organises for the product to be landed, cleared and delivered to the customer (in some cases the product enters a CMC warehouse if its Australian customer wishes to use CMC's warehousing services).
- CMC invoices the Australian customer, who pays CMC according to agreed credit terms.

We observed from CMC's importer transaction form, that terms of sale to CMC from its suppliers are either:

- [REDACTED]
- [REDACTED] or
- [REDACTED]

Credit terms were listed as being:

- [REDACTED]
- [REDACTED]
- [REDACTED] or
- [REDACTED]

[Confidential – ordering and supply process, terms of sale, payment details and credit terms]

### 6.3 Verification of imports

As mentioned above in Section 6.1, Customs and Border Protection forwarded CMC a download from its commercial database identifying importations of HSS made by CMC during the investigation period (having regard to their customs valuation date).

Within this listing, Customs and Border Protection 12 selected shipments to examine in detail and CMC completed an 'importer transaction form' detailing the costs to import and sell for each selected shipment (Confidential Attachment 3).

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

These source documents included the relevant:

- CMC offer to customer;
- Purchase order with overseas supplier;
- Commercial invoice from CMC's overseas supplier and evidence of payment;
- CMC's internal request for foreign exchange cover;
- bill of lading;
- contract evidencing agents commission;

- evidence of bank charges;
- freight forward invoice and evidence of payment;
- evidence of marine insurance and trade credit insurance costs;
- Invoices for port service charges and wharfage, together with evidence of payment; and
- CMC's invoice to its Australian customer and evidence of payment.

**6.3.1 Supplier invoice details**

We matched the invoice prices, volume and supplier details for each of the selected shipments on the importer transaction form as amended, to the supplier invoices.

We confirmed that shipments were invoiced at either [redacted] [confidential – terms of trade].

We also confirmed that the listed credit terms were correct.

We noted that for 9 transactions, the order confirmation date was recorded slightly incorrectly (within a few days of the order), this was amended to reflect the date as stated on the purchase order.

Invoices were in [redacted]. Within the importer transaction form, [redacted] [redacted]. We identified 2 incorrect entries (minor discrepancies) in the importer transaction form in respect of the rate of exchange, this was amended to reflect CMC's internal request [redacted] [confidential – invoicing details and foreign exchange practice].

We observe that the AU\$ calculations in Customs and Border Protection's commercial database are converted using the exchange rate on the date of the customs entry, and hence did not exactly match those recorded in the importer transaction form.

**6.3.2 Shipment costs**

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

CMC explained that the rate for marine insurance was calculated for each shipment using the applicable marine insurance rate as stated in its marine cargo insurance policy and applying this to the invoice (marine insurance policies form part of confidential attachment 4).

We noted that over the investigation there were 2 applicable rates of marine insurance covering the 30 September 2009 to 30 September 2010, and 30 September 2010 to 30 September 2011 periods.

Item	Average cost AU\$/T
------	------------------------

PUBLIC RECORD

200 PUBLIC FILE

Ocean freight		
Marine insurance		
Total		

6.3.3 Importation costs

Under the heading of 'Australian Importation Costs' in the importer transaction form, CMC entered amounts for customs duty and customs entry fees, customs broker's fees, port service (wharfage) charges (the wharfage including harbour dues, security, load out fee and free storage period), delivery (cartage) charges and associated cartage insurance, warehousing costs. We observed that for 2 shipments, [redacted] [redacted] [confidential – identified costs].

In the importer transaction form under importation costs, CMC also reported [redacted] [confidential – identified costs]. We considered that these costs relate to CMC's selling costs rather than importation costs, and have re-located them under this cost category in the importer transaction form (discussed below).

We compared the importation cost amounts provided in the relevant invoices to the importer transaction form. Some minor discrepancies were found (which appeared to be manual entry errors) and the data reported in the importer transaction form was adjusted accordingly.

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

Item	Average cost AU\$/T
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
Total	[redacted]

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

We noted on the importer transaction form that CMC calculated selling, general and administration (SG&A) costs for each of the selected shipments based on an SG&A costs for the financial year (CMC financial year is 31 August) corresponding to each selected shipment. This resulted in two average per metric tonne estimates of SG&A costs over the investigation period.



We observed that CMC's SG&A cost appeared to be calculated by dividing the total operating expenses (excluding bank fees and delivery) and depreciation by the total amount of tonnes shipped, resulting in a average per metric estimate of SG&A (this calculation was used by CMC in their importer transaction form to calculate the SG&A costs for each shipment).

CMC also provided an SG&A cost expressed as a percentage of sales revenue, calculated by dividing total operating expenses (excluding bank fees and delivery) and depreciation by the total sales revenue. The average SG&A cost for the two financial years is calculated as [redacted] of sales revenue.

We consider that it is more reasonable to calculate SG&A costs using the expenses/revenue method, and have amended the importer transaction form to reflect this SG&A cost (multiplying the relevant SG&A percentage by the shipment's revenue).

CMC's bank charges as reported in the importer transaction form reflect actual charges associated with each shipment. For most shipments, we were able to verify the reported charges back to source documents (in Confidential Attachment 4) However, for three shipments, we were not able to verify the reported bank charges to source documents, however we consider the costs reported to be reasonable and in line with other reported bank charges..

CMC included in the importer transaction form an amount for credit insurance. To support this charge CMC supplied a copy of its trade credit policy for the period 1 September 2009 to 31 August 2010, and a copy of its policy for the 1 September 2010 to 31 August 2011 period (these policies form part of confidential attachment 4). We observed that the respective trade credit insurance rates were applied to the revenue for each shipment.

CMC also included a cost for [redacted] [confidential - sales cost] to other CMC global offices for their assistance with import transactions. CMC provided a copy of its inter-office agreement between CMC and [redacted], which demonstrated this cost. A copy of this agreement forms part of Confidential Attachment 4.

Using the verified data in the importer transaction form, we calculated weighted average SG&A costs (inclusive of bank charge fees, commission and trade credit insurance) as [redacted].

**6.4 Export prices for selected shipments**

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

[redacted] and [redacted] shipments were considered to be at FOB terms (comparable terms).

These calculations are summarised in the below table.

HSS Type	Total
----------	-------

PUBLIC RECORD

198 PUBLIC  
FILE

Blk Pipe	
Gal Pipe (HDG)	
Pre Gal Rhs	
Ptd Rhs	
<b>Total weighted average export price</b>	

**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 all suppliers, CMC:

- negotiates directly with the supplier;
- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading;
- [REDACTED]  
[confidential – shipping details];
- [REDACTED]  
[confidential – insurance details];
- 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 CMC's customers; and
- bears the risk of its customers defaulting on purchase agreements with CMC until the time the product hits the wharf.

We consider CMC to be the beneficial owner of the goods at the time of importation.

**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.

**PUBLIC RECORD**

196  
PUBLIC  
FILE

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 [REDACTED] [suppliers' names] can be considered exporters of HSS imported by CMC.

To our knowledge, these entities are principles in the country of export, who manufacture the goods and give up the goods for shipment directly to CMC.

To our knowledge, CMC's other suppliers [REDACTED] [suppliers' names] are traders of HSS. We have insufficient information to identify the exporter for shipments from these suppliers. Further enquiries with these entities should be undertaken to ascertain the exporter of goods supplied through these traders.

**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, CMC stated that it has no relationship with its customers other than being buyer and seller in arms length transactions. It stated that it does not receive any reimbursement, rebates or other support from its suppliers in respect of the goods. CMC advised that the invoice price was the price paid.

During our examination of the selected shipments we did not find any evidence, in respect of the purchase of HSS, that:

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

We found that overall the selected shipments were profitable.

We are satisfied that transactions between CMC and its suppliers and CMC and its customers are arms length.

**9 GENERAL COMMENTS**

During our verification visit CMC made a number of statements, asserting that factors other than imports were causing injury to the Australian industry.

CMC discussed the current economic condition of the HSS market, and asserted that the HSS market has contracted since the global financial crisis.

CMC further claimed that ATM's business practices are causing self-inflicted injury, in particular excluding itself from parts of the market by restricting its sales of HSS to only "franchised" distributors. This point is further discussed in Section 5.2 of this report.

CMC claimed the Australian HSS market is threatened from increasing imports of fabricated products, affecting not only Australian producers and importers of HSS, but also Australian HSS fabricators, and that increasing the cost of imported HSS with potential duties will only increase fabricated product imports.

CMC asserted that there is no business case to dump HSS in the Australian market, this is largely because the Australian HSS Standards result in a unique HSS product that is custom made for the Australian market.

**10 RECOMMENDATIONS****10.1 Alpine, Saha Thai and Shin Yang Steel**

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

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

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

**10.2 Shanghai Minmetals, Beijing Jinghua ,Kingdoo and Minmetals**

We are of the opinion that, for the goods imported by CMC from [REDACTED] [suppliers' names], the goods have been exported to Australia otherwise than by the importer, CMC.

However, we do not have sufficient information to determine whether the goods have been purchased from the exporter.

Subject to further inquiries in relation to these shipments, we recommend that the export price for HSS imported by CMC from [REDACTED] can be established under s.269TAB(1)(c) or s.269 TAB(3) of the Customs Act 1901.

**11 LIST OF ATTACHMENTS**

- |                            |   |
|----------------------------|---|
| Confidential Attachment 1  | Part A – Importer Questionnaire Response  |
| Confidential Attachment 2  | Verification visit agenda   |
| Confidential Attachment 3  | Revised importer transaction form   |
| Confidential Attachment 4  | Documents supporting for the 12 selected shipments  |
| Confidential Attachment 5  | Revised Part C – Importer Questionnaire Response (sales listing) and revised sales listing (including non-HSS sales and order confirmation date details). |
| Confidential Attachment 6  | Supporting documents for 10 selected sales  |
| Confidential Attachment 7  | CMC's audited statements for FY2010   |
| Confidential Attachment 8  | Yearly Order Intake Dashboard   |
| Confidential Attachment 9  | Supporting documents for 3 selected forward orders  |
| Confidential Attachment 10 | CMC's profit and loss statements  |
| Confidential Attachment 11 | Corrected Customs and Border Protection commercial database download  |