



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

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## **INVESTIGATION INTO THE ALLEGED DUMPING AND SUBSIDISATION OF CERTAIN HOLLOW STRUCTURAL SECTIONS**

**EXPORTED FROM**

**THE PEOPLE'S REPUBLIC OF CHINA, MALAYSIA, THE  
REPUBLIC OF KOREA, TAIWAN AND THAILAND**

**IMPORTER VISIT REPORT**

**THYSSENKRUPP MANNEX PTY LTD**

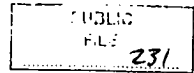
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FINAL POSITION OF CUSTOMS AND BORDER PROTECTION**

**December 2011**

**HSS – Importer Visit Report – TKM Pty Ltd**

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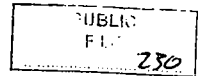
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## 2 BACKGROUND AND PURPOSE

### 2.1 Background to the current 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, ThyssenKrupp Mannex Pty Ltd (TKM) was identified in Customs and Border Protection's commercial database as a potential large importer of HSS from one or more of the nominated countries in the investigation period. Consequently, TKM was invited to participate in the investigation, and was provided with an Importer Questionnaire to complete.

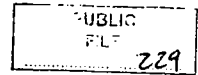
TKM completed the Importer Questionnaire, providing details regarding the company, overseas supplier information, imports, expenses, and sales. A copy of Part A (company and supplier details) of TKM's questionnaire response is at **confidential attachment 1**.

### 2.2 Purpose of meeting

The purpose of this visit was to:

- confirm that TKM 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 TKM was in arms length transactions;

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- establish post-exportation costs incurred by TKM in importing HSS;
- identify TKM's sales and customers and verify sales volume, selling prices and selling costs;
- recommend how export price for exporters of HSS that supply TKM 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.

## 2.3 Meeting

### 2.3.1 Introduction

At the meeting, we provided a general outline of the investigation process and key dates.

We outlined a general example to TKM on how a dumping margin is calculated by reference to the Normal Value, Export Price, Non-Injurious Price (including USP).

We also outlined the date for which a Preliminary Affirmative Determination (PAD) (19 November 2011) may be made and advised that the implementation of a PAD would enable Customs and Border Protection to implement provisional anti-dumping and/or countervailing measures (in the form of securities) for the remainder of the investigation and until the Minister had made a decision on whether to impose definitive measures.

TKM advised that it understood that all shipments that attracted securities would eventually be liable for duty collection if the Minister decided to impose measures. We advised that this was not necessarily the case and that securities collected in relation to shipments that had already been exported at the time a PAD is made would not be converted into an interim dumping duty (IDD). We subsequently confirmed this advice in an email to TKM dated 21 November 2011.

[Redacted] *[Representation arrangements]*

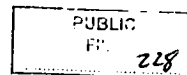
TKM was also advised generally that:

- we would prepare a confidential report on the visit (this report), and before finalisation of the report, TKM would be given the opportunity to review the report for accuracy;
- Customs and Border Protection is required to maintain a Public Record of the investigation containing non-confidential copies of all reports, submissions, correspondence and other documents relevant to the case; and
- a non-confidential version of this visit report would be prepared in consultation with TKM and placed on the Public Record.

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<sup>1</sup> All references to legislative provisions within this report refer to the *Customs Act 1901*, unless specified otherwise.

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We asked whether TKM had been able to access the Public Record online through Customs and Border Protection's Electronic Public Record (EPR). TKM explained that their current staff had yet to access the Public Record, but they would register immediately in order to do so.

## 2.3.2 Meeting Details

<b>COMPANY</b>	ThyssenKrupp Mannex Pty Ltd (TKM)
<b>ABN</b>	18 003 229 294
<b>ADDRESS</b>	Level 1, 267 Pacific Highway, North Sydney, NSW 2060
<b>TEL NO</b>	(02) 9955 0978
<b>FAX NO</b>	(02) 9925 0084
<b>DATE</b>	16 November 2011
<b>PRESENT</b>	
<b>TKM</b>	Thomas Goerges, Financial Controller & Company Secretary Alister Shaw, Product Manager Charles Roest, Assistant Trader
<b>Customs and Border Protection</b>	Geoff Gleeson, Director, Operations 3 Jason Farr, Supervisor, Operations 1

Prior to the meeting, Customs and Border Protection forwarded an agenda to TKM. A copy of the agenda is at **confidential attachment 2**.

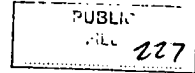
TKM were co-operative during the visit and they made relevant staff available and provided copies of requested documents as necessary.

## 2.4 Documents provided by TKM

As part of the Importer Questionnaire, Customs and Border Protection provided TKM a copy of a download from the Customs and Border Protection commercial database (**import list**), and selected a line from 12 selected shipments from this listing for further examination and verification (**confidential attachment 3**).

As its response to Part B of the Importer Questionnaire, TKM completed a 'Cost to Import and Sell' (**importer transaction form**) for the selected lines within these 12 shipments. The importer transaction form includes information on the import, shipment and post importation costs through to sale of that shipment to TKM's Australian customers (**confidential attachment 4**). We identified during our visit that the first selected shipment was outside of the investigation period and therefore we removed it from the importer transaction form, which reduced the number of transactions in the form to 11 for the purpose of making the calculations outlined in this report. This first transaction was otherwise verified as outlined below.

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Within the visit agenda, we requested that TKM prepare packages of source documents to verify the data within the importer transaction form for each of the 12 selected shipments. As requested, TKM prepared and supplied these documents during the verification visit (**confidential attachment 5**).

In addition, as Part C of its response to the Importer Questionnaire, TKM provided a complete transaction by transaction list of its sales of HSS for the investigation period (**confidential attachment 4**). The listing includes the invoice price, quantity, price and customer for each transaction.

Within the visit agenda, we requested TKM prepare and supply supporting documentation (invoices and proof of payment) for six sales transactions we randomly selected in Part C of the Importer Questionnaire. TKM provided these documents at the verification visit (**confidential attachment 6**).

TKM provided further relevant documentation during the verification as discussed in 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).

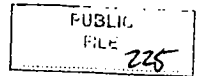
HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness..

**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);

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- 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**

**4.1 Commercial operations**

**4.1.1 Organisational structure of company**

TKM is a privately owned Australian company. The original company, Mannesmann Trading was established in 1981. It was later purchased by ThyssenKrupp and its name was changed to Thyssen Mannesmann Trading Pty Ltd. When the right to the Mannesmann name expired in December 2004, they changed their name to ThyssenKrupp Mannex Pty Ltd. The ultimate parent company is ThyssenKrupp AG.

**4.1.2 Functions of company**

TKM deals with steel products and describes itself as an importer/trader that sells only to distributors, not end users. TKM advised that its three main functions relating to imports are:

- service (import and sales),
- finance, and
- insurance.

TKM advised that HSS accounts for approximately [REDACTED] of its overall revenue.

TKM confirmed that it does [REDACTED] All steel products are [REDACTED] to its customers. TKM offers terms of up to [REDACTED] from bill of lading date to its customers.

**4.1.3 Product range**

TKM deals with steel products, [REDACTED]

TKM stated that it imports the following relevant types of HSS that meet Australian Standards AS1163 or AS1074 (corresponding Australian Standard for each import line, and the manufacturer name, are in brackets):

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

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[REDACTED]  
[REDACTED]

TKM advised AS1074 HSS and its equivalent (BS1387) are basic products that are used in general applications, whereas AS1163 HSS is used for building and construction and many other uses, now including scaffolding due to legislative requirements, where the structural integrity of HSS is important.

TKM further advised that there are grades (MPa) under each standard [REDACTED]  
[REDACTED] *[Confidential sourcing information]*

TKM advised that [REDACTED]  
[REDACTED] *[Confidential sourcing arrangements]* See section 4.3 below for details on exporters (suppliers) for TKM from each country.

A breakdown of the volumes and country of source for HSS imported by TKM is at section 6.1 (Volume of trade).

**4.1.4 Like goods**

TKM confirmed that the products identified in the import list provided to them were like goods to the HSS manufactured in Australia.

However, TKM claimed that HDG is no longer produced in Australia and therefore HDG has to be sourced from overseas.

[REDACTED]

As above, TKM advised that there are various grades under each standard and the Chinese domestic market has different grades to Australia. [REDACTED]

[REDACTED] *[Comment on production of HSS for TKM]*

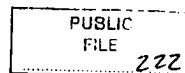
TKM identified [REDACTED] as a sound international benchmark for comparing the price of coil.

TKM outlined that tensile strength and chemical composition is important for the cost of coil.

[REDACTED]  
*[Confidential Australian product intelligence]*

When finalising this report TKM advised in respect to the application's description of the goods above, under the 'standards' heading, that [REDACTED]

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## 4.2 Accounting

TKM's financial year runs from 1 October to 30 September. TKM runs a computerised accounting system. The accounts are audited quarterly by [REDACTED]

TKM have profit centres that are aligned with the activities of each sales person, which also correlates to a group of products.

TKM advised that it performs a [REDACTED] for each shipment that records all the [REDACTED]. TKM provided us with a copy of [REDACTED] for each selected shipment in the importer transaction form, see **confidential attachment 7**.

TKM also provided a copy of its draft audited financial statement and Profit and Loss Statement for the year ending 30 September 2011. These are at **confidential attachments 8 and 9**.

## 4.3 Relationship with suppliers of the goods

In its amended response to the Importer Questionnaire (RIQ) TKM identified [REDACTED] suppliers of HSS during the investigation period:

**[CONFIDENTIAL LIST OF SUPPLIERS REMOVED]**

TKM outlined in an email to Customs and Border Protection dated 18 October 2011 that it had [REDACTED] on a very limited basis. TKM advised that [REDACTED]

TKM stated that it is not related to any of its suppliers and has no relationship with its suppliers beyond an arms length commercial relationship. TKM also advised that it does not receive discounts or rebates from its suppliers.

We did not find any evidence of rebates or discounts provided by suppliers and there appears to be no relationship between TKM and any of their suppliers beyond their commercial dealings. Therefore, we consider that TKM is unrelated to its suppliers.

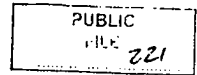
TKM informed us that they have spoken with their suppliers and the suppliers have expressed that they will cooperate with the investigation.

## 4.4 Relationships with customers

In its RIQ TKM identified [REDACTED] customers of HSS during the investigation period, see **confidential attachment 1**.

TKM advised at the visit that its main customers were:

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[REDACTED]  
[REDACTED]  
[REDACTED]

A full list of [REDACTED] TKM customers based on the sales list provided by TKM can be found at **confidential appendix 1**.

TKM advised its business model is to only sell to distributors, not end users. This is reflected in their completed RIQ (**confidential attachment 1**) where all listed customers are identified as distributors.

We found no evidence of any rebates or discounts between TKM and its customers at the visit or otherwise.

**5 AUSTRALIAN MARKET**

**5.1 General**

TKM advised that the Australian steel market slumped post GFC and has not really recovered since. TKM claimed that the market dipped again in 2011 and that overall volumes have been down for an extended period.

TKM advised that fluctuations in the Australian dollar had created uncertainty in the market. [REDACTED]

[REDACTED] [Comment on impact of particular market conditions]

[REDACTED] TKM claimed that its imports have been down.

TKM claim that following the announcement of the investigation into the dumping of HSS, demand for HSS imports had all but dried up in Australia due to the risk of dumping duties being imposed. [REDACTED]

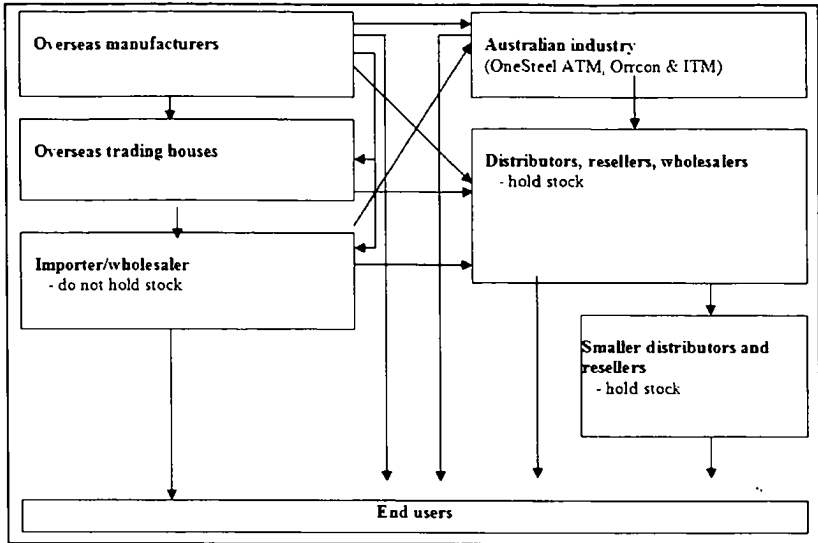
[REDACTED] [Confidential Australian pricing intelligence]

**5.2 Distribution and selling system**

We provided TKM the below diagram that was included by ATM within its application to outline the market distribution channels.

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[Distribution arrangements]

## 5.3 TKM's sales

### 5.3.1 Ordering and sales process

TKM sources the HSS from overseas, arranges the logistics involved in bringing the product to Australia (stevedoring and handling on arrival, transport and delivery to customers) and handles [REDACTED]

TKM only places orders [REDACTED]. The products are delivered directly to TKM's customers.

TKM contacts the overseas suppliers regularly to obtain current prices. These prices are generally offered in [REDACTED]. There are [REDACTED]. TKM then calculates selling prices based on the offer and current market conditions, then it approaches its customers. Its customers then have approximately [REDACTED] to place an order at the selling price offered. Some customers will seek to negotiate price discounts, or vary the quantities required. [REDACTED]

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[Redacted] [Pricing arrangements]

TKM advised the main factors affecting its price negotiation with its customer, other than the cost of the imported HSS, were [Redacted]

After reaching agreement with customers, TKM [Redacted] and places [Redacted] (stating price, quality and quantity) with the mill [Redacted]. The supplier will then issue [Redacted] to TKM. We were further advised that TKM would not place an order unless it has a specific firm order from a customer, as they have [Redacted] and so need to deliver directly to the customer.

The mill delivers the finished goods to the wharf and is generally responsible for all loading and handling costs incurred in placing the goods onto the vessel. TKM pays the ocean freight charges for the goods to be delivered to Australia and nominates the destination port. The HSS exports are sold at terms of [Redacted], and TKM offers the product at [Redacted] and generally delivers to the customers' store.

[Redacted]

### 5.3.2 Date of sale

TKM advised that all the material terms of the sale, including price, are set at the time that TKM [Redacted], with terms and conditions of purchase contained therein.

TKM advised that the lead time between the order date and fulfilment of the customers' order can vary [Redacted].

TKM advised that the exchange rate is set at the [Redacted]

### 5.3.3 Sales verification

**Accuracy** (verification to source documents)

We selected six sales (based on the invoice number) and outlined these in our agenda to TKM for them to provide the relevant source documents at our meeting. The six selected invoice numbers were:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

At the visit TKM provided invoices and proof of payment (in the form of bank statement extracts and remittance advice) for the six selected sales (**confidential attachment 6**).

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We matched the invoice details (value, quantity, invoice date and terms of payment) for the above to TKM's electronic sales listing. We also observed that the remittance advices matched the invoices for the six selected sales, and the bank statement extracts displayed the payment of these remittance advices to TKM's account. Proof of payment documents for the sales are at **confidential attachment 10**.

The sales price is identified as [REDACTED] on the invoices provided.

Based on verification of this sample of documents, we are satisfied that the details recorded in TKM's sales listing (and importer transaction form) are accurate.

## **Completeness and relevance**

We noted that TKM's import list from the Customs and Border Protection import database indicated that approximately [REDACTED] had been exported to TKM during the investigation period, [REDACTED]. In the same period the TKM sales of HSS, as reported in Part C of its RIQ, were approximately [REDACTED]. In addition, we noted the profit and loss statement for the year ending September 2011 showed sales volume for HSS as approximately [REDACTED]. We considered this data indicated that the sales listing provided for the investigation period was reasonably complete and relevant.

### **5.3.4 Profitability of sales**

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

All sales were calculated as profitable by TKM, with an average gross profit of [REDACTED].

However, this calculation did not take into account selling, general and administration (SG&A) expenses and customs duties because these values were not included in the importer transaction form and therefore we recalculated profitability including the SG&A and custom duty expenses.

As above, one of the 12 selected transactions was identified as falling outside of the investigation period and therefore we removed this transaction from the import transaction form and our calculations, but verified the transaction all the same.

Using the statement of comprehensive income for the year ending 30 September 2011, we calculated that the total SG&A expenses were [REDACTED] when measured as a percentage of revenue. [REDACTED]

We used this figure to allocate SG&A expenses to each of the 11 sales pertaining to the sample shipments and we included the customs duty costs for each relevant shipment. From there we calculated the weighted average profit for the 11 shipments as [REDACTED].

One transaction was identified as [REDACTED] of that shipment's value (shipment 11). This appears to be due to [REDACTED], which is in the form of an [REDACTED] that has been taken from TKM's [REDACTED], as it is [REDACTED]. Excluding the shipment that was identified [REDACTED], we calculated profit for the remaining 10 transactions as [REDACTED].



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We noted that the overall TKM profit before income tax was [REDACTED] for the year ending 30 September 2011.

The profit results support an overall finding that the transactions between TKM and its suppliers of HSS are arms length.

Our calculations of importer profit are contained in **confidential appendix 1**

### 5.3.5 Sales price

Following the visit, we requested the attachments to the 6 selected invoices we viewed at the visit, see confidential attachment 13. The attachments [REDACTED] TKM advised that the attachments were generated [REDACTED]. We calculated the sales price (FIS) for each country and HSS finish based on 5 selected tax invoices and attachments (see below). We did not include the attachment for invoice number [REDACTED] because [REDACTED].

Our calculations of sales price [REDACTED] by HSS finish and country of origin are as follows:

		Country of origin		
		[REDACTED]	[REDACTED]	[REDACTED]
Sales price (FIS) by HSS finish and country	Blue Painted	[REDACTED]	[REDACTED]	[REDACTED]
	Black (non painted or oiled)	[REDACTED]	[REDACTED]	[REDACTED]
	Pre Gal	[REDACTED]	[REDACTED]	[REDACTED]
	HDG	[REDACTED]	[REDACTED]	[REDACTED]

In finalising this report, TKM advised that it does not consider this small sample and the values contained within the table to be an accurate representation of its sales price for the respective products.

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## 6 IMPORTS

TKM completed the importer transaction form for the following selected shipments (and order numbers):

[REDACTED]

TKM provided bundles of source documents to verify that data in its importer transaction form for the 12 selected shipments (**confidential attachment 5**).

These source documents generally included the relevant:

- TKM Purchase Order Confirmation (which includes [REDACTED]);
- supplier invoice and packaging list;
- Bill of Lading;
- shipping invoice;
- domestic inland transportation invoices;
- customs clearance and entry fee charges invoices;
- port charges invoice
- Certificate of Origin and [REDACTED]

[REDACTED] we consider the source documents provided were acceptable for verification purposes and where the source document costs did not match the importer transaction form, we considered the discrepancies were immaterial.

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## 6.1 Volume of trade

The following table summarises the export volumes for TKM from all countries during the investigation period, based on the Customs and Border Protection's import list, see working at **confidential appendix 2**:

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

We compared the quantity and value data for the 11 transactions within TKM's revised importer transaction form with the data in the import list. We did this based on TKM's identified order numbers. [REDACTED]

[REDACTED] The accurate order number is stated as part of the Goods Description in the import list for some orders, see **confidential appendix 1**.

There was one volume discrepancy. [REDACTED]

[REDACTED], we consider the discrepancy to be minor and therefore acceptable.

We are satisfied overall that total tonnes and total price for the order identified in the import list [REDACTED] corresponds with the suppliers' invoices and is [REDACTED] accurate.

We calculated export prices for each exporter, based on finish as outlined below. However, the export prices were based only on the selected shipments. Therefore, in order to attempt to accurately calculate export prices according to individual finishes, for a larger sample, or for all exports from respective exporters, further information will be obtained from exporters during the course of the investigation.

## 6.2 Forward orders

TKM provided a detailed list of [REDACTED] forward orders in its RIQ, see **confidential attachment 4**.

We did not request purchase orders for the identified forward orders. We observed that the quantity of forward orders appears to be consistent with current levels of



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### 6.3.3 Australian Importation costs

TKM provided values for Customs broker fees, port service charges and delivery as part of their 'Australian Importation Costs' in the importer transaction form.

We were able to view the source documents that reconciled with the values listed for the majority of the Australian Importation Costs.

We noted that the values reconcile with [REDACTED] provided by TKM and therefore we are generally satisfied that the Australian importation costs are accurate.

We included duty values based on the Customs clearance documentation provided. We identified that no duty was payable on exports from Thailand due to the Australia Thailand Free Trade Agreement.

We calculated weighted average importation costs as [REDACTED] based on the verified data in the importer transaction form (see **confidential appendix 1**).

### 6.3.4 Proof of payment of imports

We were also provided with proof of payment documentation for order numbers: [REDACTED] see **confidential attachment 11**. Specifically, we were provided with a bank account transaction listing for the [REDACTED] and the bundles of invoices that made up each payment. The figure identified in the account reconciled to the bundle of invoices for payment and we were able to identify the specific shipment in the bundle of invoices. Therefore, we are satisfied that payment was made for the imports.

### 6.4 Selling, general and administrative (SG&A) costs

TKM did not provide SG&A calculations in the importer transaction form.

TKM advised that SG&A could be calculated [REDACTED] (**confidential attachments 8 and 9**). We calculated SG&A costs as outlined in section 5.3.4 above.

We advised that it was important that SG&A expenses were [REDACTED]. In response, TKM advised that SG&A identified in the [REDACTED]

### 6.5 Average post exportation costs

Below are the Australian dollar weighted average import costs per tonne for each country during the investigation period based on the verified data in the importer transaction form:

AUD/T	[REDACTED]	[REDACTED]	[REDACTED]
Shipment costs (freight and insurance)	[REDACTED]	[REDACTED]	[REDACTED]
Australian importation costs (Customs duty, Customs broker fees, port service charges and	[REDACTED]	[REDACTED]	[REDACTED]



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## 7 WHO IS THE IMPORTER AND EXPORTER

### 7.1 Who is the importer?

We have reviewed the documents provided by TKM in respect of the selected shipments. We note that TKM:

- negotiates directly with the suppliers;
  - is named as the consignee on the bill of lading;
  - is named as the buyer on supplier invoices;
  - generally 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;
  - [REDACTED];
- and
- [REDACTED]

We consider TKM to be the beneficial owner of the goods at the time of importation, and therefore the importer.

### 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.

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We are satisfied that [REDACTED] are exporters of HSS imported by TKM.

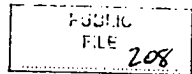
To our knowledge, these entities are principles in the country of export that manufacture the goods and provide the goods for shipment directly to TKM.

TKM advised that [REDACTED] and that TKM place their orders and make payment to [REDACTED]. However, TKM advised that they [REDACTED].

We also consider that the [REDACTED].



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## 8 ARMS LENGTH

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.

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

- there is any consideration payable 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; and
- 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.

TKM stated that it does not receive any reimbursement, rebates or other support from its suppliers in respect of the goods. TKM advised that the invoice price was the price actually paid.

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

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

We are satisfied that import transactions between TKM and its suppliers are at arms length in terms of s. 269TAA.

**9 GENERAL COMMENTS**

***HDG products***

TKM understood that ATM had recently ceased production of HDG. It considered that the Australian industry was not competitive on price for HDG. TKM explained the imported HDG is often made to the AS1074 (or BS1387) standard [REDACTED], and this grade of HDG was able to be used in most applications. TKM suggested that agricultural fence posts are an example of an application where AS1074 could be used. TKM acknowledged that some applications, such as scaffolding require the use of AS1163, and it understood there was some legislation to enforce that requirement.

***Narrow strip***

TKM understands that the use of narrow strip or "skelp" as the raw material for HSS production in China is no longer common.

***Australian industry pricing***

TKM understood that ATM and Orrcon had embarked upon a "import parity" pricing policy and that it was marketing an import replacement product. TKM understood that the Australian industry was marketing a product to Australian standard AS1450 which is a non-structural grade but can be used in many of the same applications as AS1163 as AS1074. [REDACTED]

[REDACTED] [Confidential Australian pricing

intelligence]

***HSS from Thailand***

TKM understands that Thailand has anti-dumping measures on HRC and that users of HRC must have an import licence to import HRC. [REDACTED]

**10 RECOMMENDATIONS**

**10.1 Export prices**

[REDACTED]  
We are of the opinion that the goods imported by TKM directly from [REDACTED] are:

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

Subject to further inquiries with these exporters, we recommend that the export price for HSS imported by TKM 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.

[REDACTED]  
We are of the opinion that, for the goods exported by [REDACTED] the goods have been exported to Australia otherwise [REDACTED]

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

**Geoffrey Gleeson**  
Director, Operations 3

**Jason Farr**  
Supervisor, Operations 1

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## 11 ATTACHMENTS AND APPENDICES

<b>Attachments</b>	
confidential attachment 1	TKM's response to the Importer Questionnaire (RIQ) (Part A)
confidential attachment 2	Visit agenda
confidential attachment 3	Import List (CRE download with selected shipments)
confidential attachment 4	Completed Part B (importer transaction form and forward orders) and C (sales listing)
confidential attachment 5	Source documents for 12 selected shipments
confidential attachment 6	Source documents for six selected sales
confidential attachment 7	[REDACTED] for 12 selected shipments
confidential attachment 8	Draft audited financial statement (special purpose Annual Report) for the year ending 30 September 2011
confidential attachment 9	Profit and Loss Statement (management accounts)
confidential attachment 10	Sales proof of payment documents (bank account transaction list, remittance advice and other documentation)
confidential attachment 11	Import proof of payment documents (Bank account transaction list and full invoices that make up payment)
confidential attachment 12	Marine insurance policy
confidential attachment 13	Attachments to source documents (invoices) for six selected sales
<b>Appendices</b>	
confidential appendix 1	Working – Part B & C (multiple tabs)
confidential appendix 2	Working – Import list (CRE download)