



**Australian Government**  
**Anti-Dumping Commission**

## **Public Record**

### **INVESTIGATION 264**

### **ALLEGED DUMPING OF STEEL REINFORCING BARS EXPORTED FROM**

**THE REPUBLIC OF KOREA, MALAYSIA, SINGAPORE,  
SPAIN, TAIWAN, THE KINGDOM OF THAILAND AND THE  
REPUBLIC OF TURKEY**

### **IMPORTER VISIT REPORT**

### **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**

**1 April 2015**

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## 1 BACKGROUND AND PURPOSE

### 1.1 Background to the current investigation

On 8 August 2014, OneSteel Manufacturing Pty Ltd (OneSteel) lodged an application with the Anti-Dumping Commission (the Commission) requesting that the then Parliamentary Secretary to the Minister for Industry publish a dumping duty notice in respect of steel reinforcing bar (rebar) exported to Australia from the Republic of Korea (Korea), Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand (Thailand) and the Republic of Turkey (Turkey), collectively referred to as the 'nominated countries' in this report. OneSteel, the sole manufacturer of rebar in Australia, alleges that the Australian industry has suffered material injury caused by rebar exported to Australia from the nominated countries. The applicant claimed the industry has been injured through:

- loss of sales volumes;
- loss of market share;
- price suppression; and
- reduced profits and profitability.

The Commission examined the application and prepared Consideration Report 284 (CON 284) for the Commissioner of the Anti-Dumping Commission (the Commissioner) recommending the application not be rejected.

The Commissioner, after having regard to CON 284, initiated an investigation into the alleged dumping of rebar from Indonesia, Taiwan and Turkey. Public notification of the initiation of the investigation was made on 17 October 2014 in *The Australian* newspaper and Anti-Dumping Notice (ADN) No. 2014/100.

Following initiation of the investigation, a search of the Australian Customs and Border Protection Service (ACBPS) import database indicated that CMC Australia Pty Ltd (CMC) had imported Rebar from Taiwan, Malaysia and Thailand during the investigation period (1 July 2013 to 31 June 2014). The Commission wrote to CMC advising the company of the initiation of the investigation, requesting co-operation with the investigation and provided the company with a copy of the importer questionnaire to complete. CMC was also provided with a list of its imports during the investigation period, extracted from the ACBPS import database and identified a number of transactions from the list for verification.

CMC completed the importer questionnaire, providing details regarding the company, overseas supplier information, imports and expenses.

## 1.2 Purpose of visit

The purpose of the Commission's visit to CMC was to:

- confirm that CMC is the importer of rebar attributed to it within the commercial database and obtain information to assist in establishing the identity of the relevant exporter(s);
- verify information on imports of rebar to assist in the determination of export prices;
- establish whether the purchases of rebar were arm's-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for rebar; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

## 1.3 Meeting details

<b>Company</b>	<b>CMC Australia Pty Ltd</b>
Address	6/697 Burke Rd, Melbourne VIC 3124
Telephone no.	03 9805 0400
Fax no.	03 9805 0455
Date	1 April 2015
Present	
CMC Australia	[REDACTED]
Anti-Dumping Commission	Con Soumbassis, Operations 3 Reuben McGovern, Operations 3

## 1.4 Investigation process and timeframes

The Commission advised the company of the investigation process and timeframes as follows:

- The investigation period is 1 July 2013 to 30 June 2014.
- The injury analysis period is from 1 July 2010 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) was made on 13 March 2015, imposing provisional measures on rebar exported to Australia from the nominated countries and entered for home consumption on or after 13 March 2015.

Further details relating to the determination are contained in PAD 264 and ADN No. 2015/13.

- The Statement of Essential Facts (SEF) for the investigation is currently due to be placed on the public record by 1 July 2015; or such later date as the Parliamentary Secretary to the Minister for Industry and Science (Parliamentary Secretary) allows under s.269ZHI of the *Customs Act 1901* (the Act)<sup>1</sup>.

The SEF will set out the material findings of fact on which the Commissioner intends to base his recommendations to the Minister, and will invite interested parties to respond, within 20 days, to the issues raised therein.

- Following receipt and consideration of submissions made in response to the SEF, the Commissioner will provide his final report and recommendations to the Parliamentary Secretary.

This final report is due no later than 17 August 2015, unless an extension is approved by the Parliamentary Secretary.

## 1.5 Anti-dumping in general

CMC had been advised at initiation of the investigation process and details.

There are three essential links for imposition of measures:

1. the Australian industry must be suffering or there must be a threat of material injury; and
2. the goods must be dumped; and
3. the dumped goods must be the cause of the material injury.

Dumping is assessed on exporter's goods by comparison of the export price to the normal value.

- The export price is generally ex-works (EW), free on board (FOB) or free alongside ship (FAS) and deductions may be made to get an imported price back to EW, FOB or FAS.
- The normal value is usually assessed on domestic sales in the ordinary course of trade at the same period as the export sales, that is, if export sales are based on the date of contract then normal values are based on the same dates.
- Where no suitable normal values may be done on domestic sales, the Commission may construct normal values based on costs plus, where appropriate, an amount for profit. The Commission may also consider 3<sup>rd</sup> country sales as a suitable comparison.

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<sup>1</sup> All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.  
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Where dumping, injury and a causal link are found duties may be imposed.

- Dumping duty can be as a percentage of the export price, as a fixed amount or a combination of both.
- Duties may be imposed up to the full level of dumping or up to a level required to remove injurious effects (the non-injurious price (NIP)). The NIP is based on the unsuppressed selling price (USP).

Where the Commissioner is satisfied that grounds for duties exist the Commissioner may publish a PAD imposing securities whilst the investigation continues. These securities may be converted to Interim dumping duties (IDD). IDD's may be imposed after an investigation is concluded and the Parliamentary Secretary accepts the Commissioner's recommendation to impose measures. Importers can apply every six months for a final assessment of the IDD that may see none, some or all the duty refunded.

The Commissioner may terminate an investigation before conclusion where the Commissioner is satisfied of any of: no dumping, no material injury or no causal link.

Decisions by the Commissioner to terminate and by the Parliamentary Secretary to impose measures can be appealed to the Anti-Dumping Review Panel (ADRP). In any appeal to the ADRP only information before the Commissioner/Parliamentary Secretary may be taken into account.

The Commission website [www.adcommission.gov.au](http://www.adcommission.gov.au) has detailed information on anti-dumping investigation procedures. The Electronic Public Record (EPR) contains all non-confidential information on the rebar investigation.

### **1.6 Visit report**

The Commission explained to the company that it would prepare a report of the 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.

The Commission explained that, in consultation with the company, it would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

## 2 THE GOODS

### 2.1 Goods the subject of the application

OneSteel described the goods subject of the application (the goods) as being:

*“Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.*

*The goods covered by this application include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating.*

*Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.”*

The goods are referred to as rebar in this report.

Further detailed information on the goods is contained in ADN 2014/100.

### 2.2 Tariff classification

The application states that the goods are typically classified to the following Subheadings in Schedule 3 of the *Customs Tariff Act 1995*.

- 7214.20.00 (statistical code 47);
- 7228.30.90 (statistical code 49);
- 7213.10.00 (statistical code 42); and
- 7227.90.90 (statistical code 42).

These goods if imported from Spain under these tariff subheadings are subject to a general rate of duty of 5%; and goods imported from all other countries are subject to a “free” rate of duty.

The Trade Branch of the ACBPS confirmed with the Commission that the goods under consideration were classified to the following tariff sub-headings:

- 7213.10.00 (statistical code 42) for *bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel containing indentations, ribs, grooves or other deformations produced during the rolling process; and,*
- 7214.20.00 (statistical code 47) for *other bars and rods of iron or non alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot extruded, but including those twisted after rolling containing indentations, ribs, grooves*

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*or other deformations produced during the rolling process or twisted after rolling.*

- 7227.90.90 (statistical code 42) for *bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel.*
- 7228.30.90 (statistical code 49) for *other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel.*
  - *have indentations, ribs, grooves or other deformations produced during the rolling process (reinforcing bars and rods);*
  - *be twisted after rolling.*

The ACBPS Trade Branch advised that goods imported under tariff subheading 7228.30.90 may also include products other than 'hot rolled deformed rebar'. In such cases product descriptions would be used to determine if products declared under this tariff subheading fit the description of the goods under consideration (GUC).

### 2.3 'Like' goods

CMC stated that during the investigation period they import a range of rebar of the following sizes and grades:





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CMC confirmed that all imports of reinforcing steel bar, whether in straights or coils were to the AS/NZS4671 standard.

### 3 COMPANY BACKGROUND

#### 3.1 Company background

CMC was established in 1980 as an importer and marketer of long and flat steel products for the domestic market. CMC is a subsidiary of US based Commercial Metals Company (CMC) Ltd, which is publicly listed on the New York stock exchange. The CMC Group operates offices in North America, Europe, Asia and Australasia and [REDACTED]. CMC operates three divisions across Australia: steel trading, steel distribution and raw materials.

#### 3.2 Commercial operations

CMC is the largest marketer of imported steel in Australia and sells product to its customers through offices in Melbourne, Sydney, Perth, Brisbane [REDACTED]

[REDACTED]

[REDACTED]

#### 3.3 Accounting

CMC explained that their financial year runs from October to September as their headquarters are based in the United States.

#### 3.4 Relationship with suppliers

CMC confirmed that they have no relationship other than a purely commercial one with all of their suppliers as all transactions occur at arm's length. CMC also explained that they do not receive any rebates or discounts from their suppliers and negotiate each purchase as required.

CMC purchased from the following suppliers over the investigation period:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

**3.5 Relationships with customers**

[REDACTED]

These sales were at made at arm's length pricing.

## 4 IMPORTS

### 4.1 Introduction

The ACBPS import database indicated that CMC imported rebar during the investigation period from a number of suppliers (refer section 3.4 above)

CMC provided a detailed spreadsheet showing its imports of Rebar in the investigation period.

### 4.2 Ordering process and price

CMC conducts price negotiations with steel mills on a case by case basis. The mills make a price offer for the rebar which are valid for either a couple of days or a week. CMC then forwards a contract to the steel mills directly, at which point mills either confirm immediately, whilst others take around 48 hours to respond. Purchases are made from steel mills on an as required basis. The base price for the rebar can fluctuate from month to month depending on the input costs. [REDACTED]

CMC hedges the currency in Australian dollars, and opens a letter of credit within a week. [REDACTED]

[REDACTED]. The length of time it takes to freight the steel to Australia depends on the availability of the mill and of the vessels. Shipping usually takes between 3 and 4 weeks depending on the location of the port of arrival. Shipping may take a further 2 weeks depending on when the order is made. The mills generally pack the steel at a standard suitable for export.

### 4.3 Verification

Prior to the visit, the Commission selected 13 shipments and asked CMC to provide the Commission with the following source documents:

- commercial invoices;
- packing lists;
- purchase orders;
- bills of lading; and
- Customs broker and domestic freight invoices.

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For each shipment the Commission used the source documents provided to check the listed quantity, invoice value, ocean freight and insurance, exchange rate, customs duty, importation costs, expenses and average selling prices in the import sales spreadsheet. The ocean freight was the amount identified on the supplier invoices. At the visit the Commission verified one set of documents for the shipment and post exportation costs, through to proof of payment. All other documents were later verified. The Commission was able to reconcile the shipment number, quantity, value, price and delivery terms for the selected shipments with the data in the import list.

These documents are contained in **confidential attachment IMP 1**.

### 4.4 Importation costs

The Commission calculated the average post free on board expenses for the selected shipments, which are summarised in the following table (expressed in Australian dollars per tonne). Sales and profit is discussed in section 5.

Cost item	Weighted average cost per unit (tonne)
Ocean freight	██████
Port charges	██████
Insurance	██████
Australian importation costs (excluding GST)	██████
Selling, general and administrative expenses (based on average selling price)	██████

The basis for these calculations is included in **confidential appendix 1**.

### 4.5 Export prices for shipments

Based on sales data provided by CMC, the Commission calculated the weighted average export price (in USD) for rebar over the investigation period. These calculations are summarised in the table below:

██████	██████	██████	██████
██████	██████	██████	██████

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## 5 AUSTRALIAN MARKET AND SALES

### 5.1 General

CMC supplied a listing of all transactions, including rebar sales transactions for the period 1 July 2013 to 30 June 2014.

Major customers of CMC by volume and value during the investigation period were:



### 5.2 Australian sales

CMC offered country of origin details for each sale. The imported goods are bought in a range of thicknesses from

[REDACTED]

### 5.3 Price and distribution arrangements

[REDACTED]. The rebar is generally delivered in bulk on pneumatic trucks.

### 5.4 Rebates and discounts

CMC confirmed that it does not provide discounts or rebates to its customers.

### 5.5 Sales verification (accuracy)

As part of its questionnaire response, CMC provided the Commission with a line by line sales list of its sales of rebar for the period from 1 July 2013 to 30 June 2014.

At the visit CMC supplied source documents for all sales related to the 13 selected import shipments. With the exception of one of the shipments, which was an order for stock, all other shipments were to fulfil customer orders.

CMC provided us with quotations, customer purchase orders and tax invoices for the selected sales. The invoice numbers, amount and customers names reconciled with the selected sales information in the sales list. Based on the source documents

provided, the Commission was satisfied that the values in the sales list were accurate. The company also provided a receipts register or payments of all selected invoices.

Copies of these documents are at **confidential attachment IMP 2**.

#### **5.6 Upwards verification (completeness)**

The Commission was provided with CMC's audited financial statements for the year ended 31 August 2013. These documents are included in **confidential attachment IMP 3**.

The Commission selected August 2013 for upward verification.

CMC provided a spreadsheet containing line by line transaction data for all sales by the Steel Division. [REDACTED]

The Commission was also able to reconcile sales provided in the revised version of Part C of importer questionnaire with rebar sales for August 2013 in the complete listing of sales by the [REDACTED].

The Commission was satisfied that the revised sales list was complete.

#### **5.7 Selling, general and administrative expenses (SG&A)**

CMC included in its cost to import and sell spreadsheet at Part B of its importer questionnaire response, SG&A expenses equivalent to [REDACTED] of average selling price of the imported rebar.

#### **5.8 Profitability of sales**

The Commission found that the all of CMC's selected import transactions were sold at a profit.

#### **5.9 Forward orders**

[REDACTED]



**5.10 Forward orders**



## 6 ARM'S LENGTH

In determining export prices under s. 269TAB(1)(a), the legislation requires that the relevant sales are arm's length transactions.

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's 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.

Furthermore, where:

- goods are exported to Australia otherwise than by the importer and are purchased by the importer from the exporter (whether before or after exportation) for a particular price; and
- the Minister is satisfied that the importer, whether directly or through an associate or associates, sells those goods in Australia (whether in the condition in which they were imported or otherwise) at a loss;

the Minister may treat the sale of those goods at a loss as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price.

The Commission found no evidence to suggest that any imports by CMC were not arm's length transactions. The selected transactions were sold in Australia at a profit.

## 7 CAUSATION AND MATERIAL INJURY

CMC stated that it did not sell products under the market price. CMC stated while needing to be competitive, it always sought to make a margin on its sales and that its pricing were in line with the Australian market.

CMC explained that the market for importers of rebar, whilst needing to be competitive existed to fill the need customers have for diversity of supply. CMC advised that they reviewed the domestic pricing of their suppliers on a regular basis and were surprised that its suppliers and in particular [REDACTED] had a PAD applied.

During the meeting we also discussed that during the period of the investigation, [REDACTED] supplied a combination of actual weight vs theoretical weights, and that CMC believes that the ADC had not taken this into consideration when making the calculation for the PAD.

CMC also commented on a OneSteel submission making reference to a rolling tolerance in the Taiwanese standard. CMC stated that this had no impact on the agreement on actual weight vs theoretical weight rolling tolerances between [REDACTED] and CMC

## 8 RECOMMENDATIONS

Based on the information available, the rebar imported by CMC in the investigation period:

- has been exported to Australia otherwise than by the importer;
- appear to have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arm's length transactions.

Subject to further inquiries with the exporter, the Commission is of the view that the export price should be established under section 269TAB(1)(a) using the invoiced price less deductions.

## 9 APPENDICES AND ATTACHMENTS

Title	Description
<b>Confidential Appendix 1</b>	Import calculation spread sheets completed by the Commission
<b>Confidential Attachment 1</b>	Source documents for selected import transactions provided by CMC
<b>Confidential Attachment 1</b>	Source documents for selected sales transactions provided by CMC
<b>Confidential Attachment 1</b>	Audited financial statement for financial year ended 31 August 2014