



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

**INVESTIGATION INTO THE ALLEGED DUMPING OF
HOT ROLLED COIL STEEL**

EXPORTED FROM

JAPAN, KOREA, MALAYSIA AND TAIWAN

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**

August 2012

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2 BACKGROUND AND PURPOSE

2.1 Background to the current investigation

On 15 June 2012, the Australia Customs and Border Protection Service (Customs and Border Protection) initiated an investigation into the alleged dumping of Hot Rolled Coil Steel (HRC) from Japan, the Republic of Korea (Korea), Malaysia and Taiwan following an application by BlueScope Steel Ltd (BlueScope), an Australian manufacturer of HRC.

The initiation of the investigation was publicised in *The Australian* on 15 June 2012. Australian Customs Dumping Notice No. 2012/30 provides further details of this investigation and is available at www.customs.gov.au.

Following initiation of the investigation, a search of Customs and Border Protection's import database indicated that CMC Australia Pty Ltd (CMC) had imported HRC from Japan, Taiwan, Malaysia and Korea during the investigation period (1 April 2011 to 31 March 2012). Customs and Border Protection 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 Customs and Border Protection's 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. The completed importer questionnaire can be found at **confidential attachment 1**.

2.2 Purpose of meeting

The purpose of the visit was to:

- confirm that CMC was an importer of HRC and clarify the relationship between CMC and the exporter;
- verify information on imports of HRC to assist in the determination of export prices;
- establish whether the purchases were arms length transactions;
- establish post exportation costs incurred in importing HRC;
- identify CMC sales and customers and determine sales volume, selling prices and selling costs;
- recommend how export price may be determined under s. 269TAB; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

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2.3 Meeting

We advised CMC generally of the investigation process and timeframes.

- The investigation period is 1 April 2011 to 31 March 2012.
- The injury analysis period is from 1 April 2008.
- A preliminary affirmative determination (PAD) may be made no earlier than the 60th day following the date of initiation of the investigation (14 August 2012). 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 would not make such a determination until it was satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice.
- A statement of essential facts will be placed on the public record by 3 October 2012 or such later date as the Minister allows. The statement of essential facts will set out the material findings of fact on which Customs and Border Protection intends to base its recommendations to the Minister. The statement of essential facts will invite interested parties to respond, within 20 days, to the issues raised. Submissions received in response to the statement of essential facts will be considered when compiling the report and recommendations to the Minister.
- Customs and Border Protection's report to the Minister is due no later than 17 November 2012, unless an extension to the statement of essential facts is approved by the Minister.

We advised CMC that we would prepare a confidential report on the visit. CMC would be given an opportunity to review the visit report for accuracy. A non-confidential version of this visit report would be prepared in consultation with the company and placed on the public record.

Company	CMC Australia Pty Ltd
Address	6/697 Burke Rd, Melbourne VIC 3124
Telephone no.	03 9805 0400
Fax no.	03 9805 0455
Date	3 August 2012
Present	
CMC Australia	Stephen Pearson, Director of Corporate Development Asia and Australia Mark Drury, Marketing Manager, Construction and Engineering
Howard Consulting	Merton (Jack) Howard
Customs and Border Protection	Mick Kenna, Manager Operations 3 Rachel Lohan, Supervisor Operations 1

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Prior to the meeting we forwarded an agenda to CMC. A copy of the agenda is at **confidential attachment 2**.

CMC was co-operative during the visit and provided requested documentation as necessary.

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3 THE GOODS

3.1 Goods the subject of the application

The goods the subject of the application are described as:

Hot rolled coil (including in sheet form), a flat rolled product of iron or non-alloy steel, not clad, plated or coated (other than oil coated).

Goods excluded from this application are hot rolled products that have patterns in relief (known as checker plate) and plate products.

Further detailed information on the goods is contained in ACDN 2012/30.

3.2 Tariff classification

The tariff classifications and statistical class codes in Schedule 3 to the *Customs Tariff Act 1995* and relevant rates of duty for HRC are shown below.

Tariff Classification	Statistical class code	Rate of duty - Japan	Rate of duty - Korea	Rate of duty - Malaysia	Rate of duty - Taiwan
7208.25.00	32	5%	0%	0%	0%
7208.26.00	33	5%	0%	0%	0%
7208.27.00	34	5%	0%	0%	0%
7208.36.00	35	5%	0%	0%	0%
7208.37.00	36	5%	0%	0%	0%
7208.38.00	37	5%	0%	0%	0%
7208.39.00	38	5%	0%	0%	0%
7208.53.00	42	5%	0%	0%	0%
7208.54.00	43	5%	0%	0%	0%
7208.90.00	30	5%	5%	4%	5%
7211.14.00	40	5%	0%	0%	0%
7211.19.00	41	5%	0%	0%	0%

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Customs and Border Protection’s Tariff Section identified that HRC may also be classified under 7208.51.00 (statistical class code 40) and 7208.52.00 (statistical class code 41), however, the goods classified under these headings are predominately plate or other products.

3.3 ‘Like’ goods

CMC stated that during the investigation period they import a range of HRC steel coil, sheet and strip of the following grades:

Grade	Standard
████████ [steel grade]	AS/NZS
████████ [steel grade]	AS/NZS
████████ [steel grade]	AS/NZS
████████ [steel grade]	AS/NZS
████████ [steel grade]	AS/NZS
████████ [steel grade]	JIS
████████ [steel grade]	JIS
████████ [steel grade]	JIS
████████ [steel grade]	JIS
████████ [steel grade]	JIS

Imports of HRC steel made by CMC were both pickled and oiled, and dry. CMC explained that their imports were driven by customer demand and all purchases were made to order. CMC highlighted that their customers have demanded steel to Japanese standards as it has a higher degree of formability and quality over domestically produced steel. For example, the production of steel canisters demands the use of Japanese standard steel.

CMC noted that within the Australian market there has been strong demand from pipe makers for imported HRC steel and that this segment of the market has driven

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most of the demand for imported product. It was also highlighted that demand for prefabricated HRC steel pipes has also been strong in the Australian market.

CMC provided a schedule showing what it regarded to be comparable Australian, Japanese and USA standards (**confidential attachment 3**). It also provided a list of steel products it claimed could not be purchased from the Australian industry (**confidential attachment 4**).

4 COMPANY BACKGROUND

4.1 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 one representative office in Moscow. Sales in Australia and New Zealand reportedly accounted for █% of turnover for the Group for financial year 2011. CMC operates three divisions across Australia: steel trading, steel distribution and raw materials.

4.2 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 and Adelaide. In addition, smaller regional sales outlets operate in a number of locations including Darwin, Townsville and Toowoomba. The company primarily sells to manufacturers in the steel, non ferrous metals, metal fabrication, chemical, refractory, construction and transportation businesses.

CMC uses warehouse facilities at several Australian ports for distribution purposes for just in time delivery and logistics management. The CMC Coil Steel Group is a major distributor and processor of steel sheet, coil and long products. CMC Coil Steels Group is the third largest distributor of coil in Australia. CMC competes in the market on price, quality and reliability of the products, financing alternatives and additional services.

CMC mentioned that it is a significant purchaser of HRC from █ [steel manufacturer.]

4.3 Accounting

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

4.4 Relationship with suppliers

CMC lists █ [steel exporters] as its suppliers of the goods under consideration. CMC confirmed that they have no relationship other than a purely commercial one with all of their suppliers as all transactions occur at arms length. CMC also explained that they do not receive any rebates or discounts from their suppliers.

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4.5 Relationships with customers

It was noted that CMC sells HRC steel to the related companies, CMC Coil Steels and GAM Steel Pty Ltd (an operation acquired by CMC in 2011). However CMC Coilsteel and GAM Steel Pty Ltd are operated as separate entities and have separate managements. As such, all sales are made for profit and are arms length transactions.

Over the investigation period, CMC sold HRC steel to [REDACTED] [a number of customers]. CMC stated that they do not offer rebates, settlement discounts or volume percentage discounts to their customers and that the invoiced price is the price paid.

5 IMPORTS

5.1 Introduction

Customs and Border Protection's import database indicated that CMC imported HRC during the investigation period from a number of suppliers including [redacted] [steel manufacturers.] CMC's import volumes over the investigation period total [redacted] MT.

CMC provided a detailed spreadsheet showing its imports of HRC in the investigation period [Imports of HR Apr11 to Mar12 Aust excl NZ].

5.2 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 steel 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 [redacted] [frequency]. The price of HRC steel is determined by a base price for the coil, in addition to extras for grade, finish and size. The base price for the coil can fluctuate from month to month, whilst the price for extras is usually fixed.

CMC hedges the currency in [redacted],[currency name] and [redacted] [payment method]. However purchases from steel mills are not always [redacted] [payment method], steel mills with which CMC have established a strong relationship accept [redacted] [payment method]. Once the order confirmation is made prices can not be altered. Production of steel usually takes 60 days, however this varies from mill to mill. The length of time it takes to freight the steel to Australia depends on the availability of 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. Bulk coil is shipped in bulk breakers.

5.3 Verification

Prior to the visit, we selected 12 shipments so that CMC could provide Customs and Border Protection the following source documents:

- commercial invoices;
- packing lists;
- purchase orders;
- bills of lading; and

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- Customs broker and domestic freight invoices.

The source documents are at **confidential attachment 5**.

For each shipment we 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 we verified two sets of documents for proof of payment of the shipment and post exportation costs. All other documents were later verified. These documents are at **confidential attachment 6**. We were able to reconcile the shipment number, quantity, value, price and delivery terms for the selected shipments with the data in the import list.

CMC also provided a document showing its ocean freight costs for HRC imported from Malaysia (**confidential attachment 7**).

5.4 Importation costs

We 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 6.

Cost item	Weighted average cost per unit (tonne)	Weighted average cost per unit (tonne)	Weighted average cost per unit (tonne)
	Japan	Korea	Taiwan
Ocean freight - Japan	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Port charges	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Insurance	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Australian importation costs (excluding GST)	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Selling, general and administrative expenses (based on average selling price)	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Total weighted average post free on board (FOB) expenses	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

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5.5 Who is the importer

We noted that CMC:

- is named as the customer on supplier invoices;
- is named as the consignee on the bill of lading; and
- organises delivery of the goods to the customer.

We consider CMC was the beneficial owner of the goods at the time of importation and is therefore the importer.

5.6 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.

Where there is no principal in the country of export Customs and Border Protection will normally consider the exporter to be the person who gave up responsibility for the goods as described above.

Based on the information available Customs and Border Protection is satisfied that [REDACTED] [exporter companies] are exporters of the goods.

6 AUSTRALIAN MARKET AND SALES

6.1 General

CMC noted that the Australian market for HRC steel is divided into three markets, automotive, pipe making and general fabricators. CMC explained that most of their customers are in the general fabricators segment and produce a range of items. CMC highlighted that the demand for imported product was driven by the consumer. They explained that the customers demanded Japanese steel for certain applications as the quality of the Japanese steel was superior in terms of formability and quality to that offered locally and that they need to offer customers choice in product range.

CMC further explained that the high Australian dollar had resulted in a greater demand for both HRC steel and finished imported product which was having a negative impact upon domestic sales for Australian industry. Moreover, downstream industries are now under increased pressure from import competition and as such some manufacturers had either moved their operations offshore or had started to import the finished product in order to compete in this highly competitive market.

6.2 Australian sales

CMC advised that its imports consist of both pickled and oiled and dry of the following grades:

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Grades
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]
████████ [steel grade]

CMC offered country of origin details for each sale. The imported goods are bought in a range of thicknesses from █████ mm to █████ mm and widths from █████ mm to █████ mm. HRC is available in pickle and oiled and dry.

We discussed CMC's supply of HRC to rockbolt manufacturers in Australia. Rockbolts are a type of bolt used to stabilise land in tunnels or mines. CMC advised that rockbolt manufacturers in Australia included the companies █████ [manufacturer names]. The company mentioned that █████ [company name] purchases almost entirely █████ [company name] HRC to meet its requirements, including █████ [company name] material purchased from CMC.

CMC advised that the rockbolt industry in Australia had grown in line with the growth in mining activity, however that it faced pressure from imported rockbolts, particularly due to the cost of galvanising. The company stated that the vast majority of its imports from █████ [exporter] are used to supply rockbolt manufacturers.

6.3 Price and distribution arrangements

CMC Australia sells HRC steel free in to store (FIS) to all customers. The HRC is generally delivered in bulk on pneumatic trucks.

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6.4 Rebates and discounts

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

6.5 Sales verification (accuracy)

As part of its questionnaire response, CMC provided us with a line by line sales list of its sales of HRC for the period from 1 April 2011 to 31 March 2012.

At the visit we sought source documents for the following five selected transactions:

Invoice number	Date of invoice
S68851	14/04/2011
S71660	26/07/2011
S72369	25/09/2011
S73637	7/12/2011
S75140	23/01/2012

CMC provided us with commercial invoices for the selected sales. Copies of these documents are at **confidential attachment 8**. The invoice numbers, amount and customers names reconciled with the selected sales information in the sales list. Based on the source documents provided we are satisfied that the values in the sales list are accurate. The invoice dates varied marginally between the sales spreadsheet and the tax invoices. CMC explained that the difference in invoice dates listed is due to either the date of vessel arrival or the date of proof of delivery to the customer.

Proof of Payment

We received proof of payment for the goods for invoice number S68851, S72369, S75140, S73637 and S71660. We were provided with remittance advice for all five transactions. These documents confirm that CMC has been paid the invoiced amounts.

6.6 Upwards verification (completeness)

We were provided with CMC's audited financial statements for the year ended 31 August 2011 (**confidential attachment 9**). CMC also provided its monthly income

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statement for its Sheet and Coil Division for the investigation period showing the quantity and value of all sales (**confidential attachment 10**). We chose June 2011 to reconcile.

CMC provided a spreadsheet containing line by line transaction data for sales by the Sheet and Coil Division [June 2011 sales data [REDACTED] MT]. The company explained that for the purposes of the income statement, sales are recognised as having been made if they delivered but not yet invoiced. CMC provided a schedule of revenue recognised but not invoiced for June 2011 for all products, highlighting revenue recognised by the Sheet and Coil Division (**confidential attachment 11**). The addition of the line by line transaction data and the revenue recognised for June 2011 but not yet invoiced reconciled with the quantity and value for June 2011 in the profit and loss statement.

We were also able to reconcile sales provided in the revised version of Part C of importer questionnaire with HRC sales for June 2011 in the complete listing of sales by the Sheet and Coil Division.

We are satisfied that the revised sales list is complete.

6.7 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 HRC. We could see from CMC's management profit and loss statement for the investigation period (**confidential attachment 10**) that this percentage had been calculated by dividing its total SG&A expenses for the Sheet and Coil Division by the revenue for the Division over the same period.

6.8 Profitability of sales

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

6.9 Forward orders

CMC identified in its questionnaire response that it had forward orders with [REDACTED] [exporters] for approximately [REDACTED] MT of HRC due for delivery between 1 July 2012 and 1 December 2012.

7 ARMS LENGTH

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

Section 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;
- 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.

We found no evidence to suggest that any imports by CMC were not arms length transactions. The selected transactions were sold in Australia at a profit.

8 CAUSATION AND MATERIAL INJURY

CMC explained that three factors are contributing to the difficulties experienced in the steel manufacturing industry at the moment. These three factors include, the high Australian dollar, falling downstream demand for steel for use in manufacturing and highly competitive imports. CMC noted that the volumes of prefabricated steel entering the Australian market had increased in recent years due to the high value of the Australian dollar. As such, many downstream manufacturers of HRC steel based products had either exited the industry, chosen to move production overseas or import finished product in order to compete in this highly competitive market.

Moreover, CMC believes [REDACTED] [company name] is under pressure as high volume steel consumers, such as the mining industry, have turned to imported steel for their new projects over domestic product as it is more economical.

9 RECOMMENDATIONS

Based on the information available, the HRC 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 arms length transactions.

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

Mick Kenna

Manager, Operations 1

Rachel Lohan

Supervisor, Operations 1

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10 ATTACHMENTS

Confidential attachment 1	Completed importer questionnaire
Confidential attachment 2	Agenda
Confidential attachment 3	Comparison chart of steel standards
Confidential attachment 4	Steel products not able to be purchased in Aust
Confidential attachment 5	Import source documents
Confidential attachment 6	Payment and post-exportation cost documents
Confidential attachment 7	Malaysian ocean freight costs
Confidential attachment 8	Selected sales invoices
Confidential attachment 9	Audited financial statements to 31 August 2011
Confidential attachment 10	Income statement – Sheet and Coil Division
Confidential attachment 11	Revenue recognised but not invoiced