



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO. 400

INQUIRY CONCERNING THE CONTINUATION
OF ANTI-DUMPING MEASURES APPLYING TO
HOT ROLLED COIL
EXPORTED FROM JAPAN, THE REPUBLIC OF KOREA,
MALAYSIA AND TAIWAN

25 September 2017

PUBLIC RECORD

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ABBREVIATIONS

°C	degrees Celsius
2016 Steel Report	<i>Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission</i>
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ASEAN	Association of South East Asian Nations
BD	BlueScope Distribution Pty Ltd
BlueScope	BlueScope Steel Limited
BOS	Basic Oxygen Steelmaking
Chung Hung	Chung Hung Steel Corporation
the Co-Defence	collectively, JFE-Steel Corporation, Kobe Steel Ltd, Nippon Steel & Sumitomo Metal Corporation and Nisshin Steel Co., Ltd
combination duty method	the combination of fixed and variable duty method
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CSC	China Steel Corporation
CTMS	cost to make and sell
the current measures	the anti-dumping measures currently applicable to exports of HRC to Australia from Japan, Korea, Malaysia and Taiwan that are due to expire on 20 December 2017
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the Guidelines	<i>Guidelines on the Application of Forms of Dumping Duty November 2013</i>
HRC	hot rolled coil
Hyundai Steel	Hyundai Steel Company
EPR	electronic public record
FIS	Free into Store
FOB	Free on Board
the goods	HRC exported from the nominated countries as defined in Chapter 3 – the goods the subject of the application

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IDD	interim dumping duty
the Injury Direction	<i>Ministerial Direction on Material Injury 2012</i>
inquiry period	the period from 1 January 2016 to 31 December 2016
Korea	the Republic of Korea
the Manual	<i>Dumping and Subsidy Manual</i>
mm	millimetres
NIP	non-injurious price
the notice	the dumping duty notice published on 20 December 2012
OCOT	ordinary course of trade
OECD	Organisation for Economic Development and Co-operation
Orrcon	Orrcon Distribution Pty Ltd
Parliamentary Secretary	Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
PCN	Product Control Number
PO	pickled and oiled
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 188	<i>International Trade Remedies Branch Report No. 188</i>
REQ	response to the exporter questionnaire
SEF	statement of essential facts
Shang Chen	Shang Chen Steel Co., Ltd
the subject countries	collectively, Japan, Korea, Malaysia and Taiwan, as the countries subject to the dumping duty notice the subject of this inquiry
USP	unsuppressed selling price
YE	year ending

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether the continuation of the anti-dumping measures, in the form of a dumping duty notice, applying to hot rolled coil (HRC) (the goods) exported to Australia from Japan, the Republic of Korea (Korea), Malaysia and Taiwan (collectively, the subject countries) is justified. This SEF sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary).¹

The anti-dumping measures currently applicable to exports of HRC to Australia from Japan, Korea, Malaysia and Taiwan (the current measures) are due to expire on 20 December 2017.

1.2 Legislative framework

Division 6A of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for the continuation of anti-dumping measures.

Subsection 269ZHE(1) requires that the Commissioner publish a SEF on which he proposes to base his recommendations to the Parliamentary Secretary concerning the continuation of the measures. Subsection 269ZHE(2) requires that in doing so the Commissioner must have regard to the application and any submissions received within 37 days of the initiation of the inquiry, and may have regard to any other matters that he considers relevant.

Subsection 269ZHF(1) requires that the Commissioner must, after conducting his inquiry, give the Parliamentary Secretary a report which recommends that the relevant notice(s):

- remain unaltered;
- cease to apply to a particular exporter or to a particular kind of goods;
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained; or
- expire on the specified expiry day.

¹ On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this inquiry, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

² All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

Pursuant to subsection 269ZHF(2), in order to recommend that the Parliamentary Secretary take steps to secure the continuation of the anti-dumping measures, the Commissioner must be satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measures are intended to prevent.

1.3 Findings and conclusions

The measures were imposed as a result of the publication of a dumping duty notice (the notice) on 20 December 2012.³ The measures are due to expire on 20 December 2017.

The present inquiry was initiated on 4 April 2017 following the Commissioner's consideration of an application lodged by BlueScope Steel Limited (BlueScope) seeking the continuation of the anti-dumping measures. For the purpose of this inquiry, the Commissioner established an inquiry period of 1 January 2016 to 31 December 2016 (inquiry period).

As required under subsection 269ZHF(1), the Commissioner's report to the Minister must recommend that the dumping duty notice remain unaltered, or that the notice cease to apply to a particular exporter or to a particular kind of goods, or that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained, or that the notice expire on the specified expiry day.

In order to assess whether dumping may continue or recur, the Anti-Dumping Commission (Commission) has obtained information relevant to the assessment of dumping. The Commission has therefore ascertained the variable factors relevant to the anti-dumping measures during the inquiry period.⁴

The Commission has also examined data from the Australian Border Force (ABF) import database, financial data from the Australian industry, data from the cooperating exporters of HRC from the subject countries, and data from importers of those goods. Based on the Commission's analysis of the data described above and the evidence currently available, the Commissioner is satisfied that:

- the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent for HRC exported to Australia from Korea and Taiwan; and
- the expiration of the measures would not lead to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent for HRC exported to Australia from Japan and Malaysia.

³ [Australian Customs Dumping Notice No. 2012/66](#) refers. The notice was subsequently varied ([Anti-Dumping Notice No. 2013/49](#) refers).

⁴ The variable factors are the normal value, the export price and the non-injurious price (subsection 269T(4E)(a) refers). The Commission notes that there have been no reviews (under Division 5 of the Act) nor duty assessments (Division 4) since the imposition of the original measures. If the measures are continued, the Commission considers that it is appropriate to establish a contemporary basis for calculating the payment of IDD.

1.4 Proposed recommendation

Based on the above findings, the Commissioner proposes to recommend to the Parliamentary Secretary that he take steps to secure the continuation of the dumping duty notice in respect of the goods exported from Korea and Taiwan.

The Commissioner proposes to recommend that the notice cease to have effect with respect to exports from Japan and Malaysia on and after 20 December 2017.

The Commissioner also proposes to recommend to the Parliamentary Secretary that the variable factors be altered in relation to all exporters that remain subject to the notice.

1.5 Responding to this SEF

This SEF represents an important stage in the inquiry. It informs interested parties of the facts established to date and allows them to make submissions in response. It is important to note that the SEF may not represent the final views of the Commissioner.

The Commissioner must have regard to submissions received in relation to this SEF within 20 days of the SEF being placed on the public record in making his final report to the Parliamentary Secretary. The report will recommend whether or not the anti-dumping measures should be continued, and if so, whether the relevant notice ought to remain unaltered, cease to apply to particular exporters, or have effect as if different variable factors had been ascertained and therefore the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than **15 October 2017**.⁵ The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.⁶

The Commissioner must report to the Parliamentary Secretary by **9 November 2017**.

Submissions should preferably be emailed to investigations1@adcommission.gov.au.

Alternatively, they may be posted to:

Director, Investigations 1
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record.

A guide for making submissions is available at www.adcommission.gov.au.

⁵ As this is a Sunday, the effective due date for responses to this SEF will be the following business day (16 October 2017).

⁶ Subsection 269ZHF(4) refers.

PUBLIC RECORD

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available by request in hard copy in Melbourne (phone (03) 8539 2440 to make an appointment), or online at www.adcommission.gov.au.

Documents on the public record should be read in conjunction with this SEF.

2 BACKGROUND

2.1 Initiation and current measures

Anti-Dumping Notice (ADN) No. 2017/45 on the electronic public record (EPR) sets out the Commissioner's reasons for initiating the current inquiry.⁷

The anti-dumping measures were initially imposed by public notice on 20 December 2012 by the then Minister for Home Affairs following consideration of *International Trade Remedies Branch Report No. 188* (REP 188). The anti-dumping measures currently apply to all exporters of the goods from the subject countries. A background to key cases in relation to the goods is summarised in Table 1, below.⁸

Case type and number	ADN No.	Date	Country of export	Findings
Investigation REP 188	2012/66	20 December 2012	Japan, Korea, Malaysia and Taiwan	Dumping duties imposed.
Reinvestigation (<i>Anti-Dumping Commission Report No. 209</i>)	2013/49	17 July 2013	Japan, Korea, Malaysia and Taiwan	Imports of goods to automotive industry that were not found to be causing injury are not liable for duty under the dumping duty notice. Lesser duty rule should only apply to Japanese exports of pickled and oiled (PO) HRC. Variable dumping margin for PO HRC from Japan set to 0%.

Table 1: Summary of cases undertaken in relation to the goods

Further, there are a number of exemptions from the payment of interim dumping duty (IDD) which apply to exports of the goods from the subject countries, based on tariff concession orders. These are summarised in the following table.

Exemption number	ADN No.	Date of Effect	Exempt goods are those subject to:
EX0006 and EX0007	2013/94	25 November 2013	TC1309208, TC1309209, TC1309210, TC1309212, TC1309213, TC1349331 , TC1349332 and TC1349335 refer. ⁹
EX0024	2015/109	31 August 2015	TC1413447 refers.
EX0048	2017/27	4 April 2017	TC1635932 refers.

Table 2: Summary of exemptions applying to the goods

⁷ [ADN No. 2017/45](#) and the [EPR for this inquiry](#) are available on the Commission [website](#).

⁸ Reports and documents relating to these cases are available on the relevant public record on the Commission [website](#).

⁹ The tariff concession order numbers TC1309208, TC1309209, TC1309210, TC1309212 and TC1309213 are no longer available. As noted in [ADN No. 2013/94](#), the exemption based on these orders was sought by Ford Motor Company of Australia. The Commission understands that, as Ford is no longer manufacturing vehicles in Australia, the relevant tariff concession orders have been revoked.

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Table 3, below, sets out the current measures applying to exports of HRC to Australia. Note that all exporters are subject to the combination of fixed and variable duty method (combination duty method). Importers are liable to pay both the fixed rate of duty (expressed as a proportion of the actual export price) and, if the actual export price of the shipment is lower than the ascertained export price, a variable component of duty (i.e. the difference between the ascertained export price and the actual export price).

Country	Exporter	Finish	Fixed rate of duty	Ascertained Export Price
Japan	All exporters	Bare	7.5%	Confidential
		Pickled and oiled	0.0%	Confidential
Korea	POSCO	All finishes	6.0%	Confidential
	Hyundai Steel Company	Bare	2.6%	Confidential
		Pickled and oiled	6.0%	Confidential
	All other exporters	All finishes	11.8%	Confidential
Malaysia	Megasteel Sdn. Bhd.	All finishes	15.4%	Confidential
	All other exporters	All finishes	15.4%	Confidential
Taiwan	China Steel Corporation	All finishes	2.6%	Confidential
	Chung Hung Steel Corporation	All finishes	6.5%	Confidential
	Shang Chen Steel Co., Ltd	All finishes	4.1%	Confidential
	All other exporters	All finishes	8.2%	Confidential

Table 3: Current measures applying to exports of HRC

2.2 Conduct of inquiry

The Commission established an inquiry period of 1 January 2016 to 31 December 2016. The Commission has also examined data from the ABF import database and financial data from BlueScope from 1 January 2014 to 31 December 2016 for the purpose of analysing trends in the market for the goods and assessing potential injury factors.

2.2.1 Australian industry

The Commission has established that the applicant, BlueScope, is the sole representative of the Australian industry producing like goods to the goods covered by the measures.

The Commission conducted a verification visit to BlueScope's premises in May 2017. The report in relation to this visit is available on the EPR.¹⁰

¹⁰ [Document 027](#) refers.

2.2.2 Importers

The Commission identified more than twenty importers in the ABF import database that imported HRC during the inquiry period from the countries subject to measures. Subsequently, the Commission forwarded importer questionnaires to those importers from each of the subject countries that imported the highest volume of the goods during the inquiry period. Seven completed importer questionnaires were received (from importers responsible for approximately 73 per cent of imports of the goods from the countries the subject of this inquiry during the inquiry period). The Commission completed the verification of the data submitted by five of these importers, as set out in the following table:

Importer	Document No. ¹¹
Amity Pacific Pty Ltd	016
CITIC Australia Steel Products Pty Ltd	020
Sanwa Pty Ltd	021
POSCO Australia Pty Ltd	034
BlueScope Distribution Ltd	035

Table 4: Verified data: Importers

2.2.3 Exporters

The Commission identified more than twenty exporters in the ABF import database that exported the goods from the countries the subject of the notice.

The Commission forwarded exporter questionnaires to the exporters that exported the highest volume of the goods during the inquiry period. In total, the Commission forwarded thirteen exporter questionnaires to exporters and exporters were invited to participate in the inquiry by returning a completed response to the exporter questionnaire (REQ). Five completed REQs were received (from exporters responsible for approximately 60 per cent of exports of the goods from the subject countries during the inquiry period).

The Commission completed onsite verification of the data submitted by three of these exporters, as set out in the following table:

Exporter	Country	Document No. ¹²
China Steel Corporation	Taiwan	022
Hyundai Steel Company	Korea	031
Shang Chen Steel Co., Ltd	Taiwan	032

Table 5: Verified data: Exporters

¹¹ The visit reports are available on the [EPR](#).

¹² *ibid.*

2.3 Submissions received from interested parties

The Commission has received several submissions during the inquiry. The Commission particularly notes the submissions from and on behalf of JFE-Steel Corporation, Kobe Steel Ltd, Nippon Steel & Sumitomo Metal Corporation and Nisshin Steel Co., Ltd (which collectively refers to itself as the Co-Defence, and is therefore the terminology adopted in this inquiry) in respect of exports of the goods from Japan.

None of the submissions received to date have, in the Commissioner’s opinion, prevented the timely placement of the SEF on the public record (as per subsection 269ZHF(3)). Accordingly, all of the submissions listed in the following table (and available on the EPR) have been considered in preparing this SEF:

Interested Party	Date Received	EPR Document No.
Co-Defence	11 May 2017	005
Exporter – JFE-Steel Corporation	11 May 2017	006
Exporter – Kobe Steel Ltd	11 May 2017	007
Exporter – Nippon Steel & Sumitomo Metal Corporation	11 May 2017	008
Exporter – Nisshin Steel Co. Ltd	11 May 2017	009
Australian Industry (BlueScope)	28 May 2017	013 and 014
Australian Industry (BlueScope)	28 May 2017	015
Exporter – CSC	28 June 2017	023
Australian Industry (BlueScope)	30 June 2017	024 and 025
Exporter – POSCO	7 July 2017	026
Australian Industry (BlueScope)	11 July 2017	028
Co-Defence	10 July 2017	030
Australian Industry (BlueScope)	11 August 2017	033

Table 6: Summary of submissions received

2.3.1 Validity of initiation regarding exporters from Japan

The Co-Defence lodged an early submission which argued that the Commissioner had erred in initiating the continuation inquiry in respect of exporters from Japan.¹³ The submission pointed to the original investigation and the measures imposed on differing finishes for the goods (bare and PO), and argued that such an outcome was incorrect at law as a result of the subsequent *Panasia* decision.¹⁴

¹³ [Document 005](#) refers.

¹⁴ *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, at paragraph 154 refers.

The Co-Defence considers that it was not open to the Commissioner to accept an application for the continuation of these unlawful measures, that the continuation inquiry as it applies to Japan ought to be abandoned, and the measures as they apply to exports from Japan ought to have no further application.

In circumstances where differing anti-dumping measures were established prior to the *Panasia* decision, the Commission's practice has been to apply a single form of measures at the next available opportunity (typically, this has occurred in the course of a review of measures under Division 5 or through a continuation inquiry under Division 6A). The Commission observes that the *Panasia* decision had legal force only in respect of the measures applied to aluminium extrusions in that case, and that the orders of the Court were restricted to correcting the error as it applied to those goods at that time.

Whilst it is open to the Parliamentary Secretary to self-initiate a review of measures (which may provide a mechanism to amend the measures as they apply to exports of HRC) under subsection 269ZA(3), the Parliamentary Secretary would need to form a reasonable opinion that the variable factors relevant to the taking of those measures had changed or that the measures were no longer warranted. Further, the Commissioner does not have the power to unilaterally remove countries or exporters from the notice (as would be required to give effect to the Co-Defence's request to remove exports from Japan from the Dumping Commodity Register in respect of the goods). In the present circumstances, the only means of potentially achieving the outcome sought by the Co-Defence is to undertake the continuation inquiry.

2.3.2 Publication of Product Control Numbers

BlueScope has requested that the Commission publish the methodology by which each cooperating exporter has established a Product Control Number (PCN) for its goods to facilitate model matching for the purpose of ascertaining the variable factors.¹⁵

BlueScope submits that:

The current non-disclosure of PCN information is viewed as a loophole that is heavily exporter-weighted, lacks symmetry, and does not allow for reasonable transparency for interested parties in the investigation process.

The purpose of model matching, as set out in the *Dumping and Subsidy Manual* (the Manual), is to identify identical goods sold on the exporter's domestic market; where there are no identical goods, model matching is used to identify those goods which most closely resemble the goods under consideration.¹⁶ The use of PCNs is one method of identifying the characteristics of the HRC being examined and its cost and price drivers, enabling a reasonable and appropriate comparison between domestic and export sales to calculate an accurate dumping margin. However, it is not necessary that PCNs be consistent between differing exporters (though it may be desirable).

¹⁵ [Document 024](#) refers.

¹⁶ Available on the Commission [website](#); page 33 refers.

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The Commission notes that the verification reports address this issue in respect of companies that were visited.¹⁷ The Commission has been cognisant of this issue when calculating dumping margins for the other cooperative exporters.

¹⁷ See section 2.3 of the visit reports for [Shang Chen](#), [Hyundai Steel](#) and [CSC](#).

3 THE GOODS, LIKE GOODS & THE AUSTRALIAN INDUSTRY

3.1 Finding

The Commissioner considers that HRC produced locally is “like” to the goods subject to the anti-dumping measures. BlueScope is the sole Australian industry manufacturer producing the like goods.

3.2 Legislative and policy framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping or subsidisation, the Commissioner firstly determines whether the goods produced by the Australian industry are “like” to the imported goods. Subsection 269T(1) defines like goods as:

Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commissioner must also consider whether the “like” goods are in fact produced in Australia. Subsection 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under subsection 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia. The following analysis therefore establishes a framework for assessing whether dumping would cause injury to the Australian industry producing the like goods.

3.3 The goods

The goods subject to the anti-dumping measures and therefore this inquiry are:

hot rolled coil (including in sheet form), a flat rolled product of iron or non-alloy steel, not clad or 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.

There are a number of relevant international standards for HRC; the relevant Australian Standard is AS/NZS 1594. The standards cover the range of HRC products via specific grade designations, including the recommended or guaranteed properties of each product grade.

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Hot rolled sheet that is 3/16th of an inch (4.75 millimetres (mm)) thick or more is considered to be plate steel, which is not the goods and is therefore excluded from the inquiry. Hot rolled sheet that is less than 4.75 mm thick is included in this inquiry.

3.3.1 Tariff classification of the goods

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

Tariff Subheading	Statistical Code	Description
7208		FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 mm OR MORE, HOT-ROLLED, NOT CLAD, PLATED OR COATED:
7208.2		Other, in coils, not further worked than hot-rolled, pickled:
7208.25.00	32	Of a thickness of 4.75 mm or more
7208.26.00	33	Of a thickness of 3 mm or more but less than 4.75 mm
7208.27.00	34	Of a thickness of less than 3 mm
7208.3		Other, in coils, not further worked than hot-rolled:
7208.36.00	35	Of a thickness exceeding 10 mm
7208.37.00	36	Of a thickness of 4.75 mm or more but not exceeding 10 mm
7208.38.00	37	Of a thickness of 3 mm or more but less than 4.75 mm
7208.39.00	38	Of a thickness of less than 3 mm
7208.5		Other, not in coils, not further worked than hot-rolled:
7208.53.00	42	Of a thickness of 3 mm or more but less than 4.75 mm
7208.54.00	43	Of a thickness of less than 3 mm
7208.9		Other
7208.90.00	30	Other
7211		FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF LESS THAN 600 mm, NOT CLAD, PLATED OR COATED:
7211.1		Not further worked than hot-rolled:
7211.14.00	40	Other, of a thickness of 4.75 mm or more
7211.19.00	41	Other

Table 7 – Relevant tariff subheadings for HRC

3.4 Like goods

The applicant is the sole manufacturer of HRC in Australia. As a result, the Commission refers to BlueScope and the Australian industry interchangeably. The Commission has considered the application and findings of previous investigations¹⁸ and publicly available information in its assessment of like goods.

3.4.1 Physical likeness

HRC produced by the Australian industry has a physical likeness to the goods exported to Australia from the subject countries. The Commission is satisfied the goods and locally produced HRC are produced in similar grades, diameters, weights, standards, steel compositions and appearance.

3.4.2 Commercial likeness

HRC produced by the Australian industry has a commercial likeness to the goods exported to Australia from the subject countries. BlueScope competes directly with overseas manufacturers of the goods, and the pricing behaviour in the Australian market indicates the goods and the locally produced goods are interchangeable.

3.4.3 Functional likeness

The Commission is satisfied that the goods and locally produced HRC perform the same functions and have the same or similar end uses. Typical applications of HRC include the production of light structural members, shelving, tanks, racking, light poles, guard rails, gas cylinders, automotive components, pipe and tube, and mower parts.

3.4.4 Production likeness

The Commission is satisfied that the locally produced HRC has a production likeness to the goods exported to Australia from the subject countries. During the verification of BlueScope's data, the Commission observed the production of the goods. The Commission also conducted verification visits in Taiwan and Korea and observed similar production processes at the fully integrated mills which were visited. There are four stages for the production of HRC from raw materials:

Ironmaking

Iron is extracted from iron ore in a blast furnace by a process known as reduction.

The raw materials - iron ore, coke and fluxes (Dolomite and Limestone) - are fed into the top of the furnace by conveyor. Air, which is heated to about 1200 degrees Celsius (°C), is blown into the furnace through nozzles that are spaced around the lower section of the furnace. The air causes the coke to burn, producing carbon monoxide which creates the required chemical reaction. The iron ore (iron oxide) is reduced to molten iron by removing the oxygen.

¹⁸ REP 188 refers, but also cases relevant to zinc coated (galvanised) steel and hollow structural steel sections (HSS) for which HRC is the chief raw material input. These cases (both [past](#) and [current](#)) can be reviewed on the Commission website.

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About every two hours a hole at the bottom of the furnace is opened and the molten iron and slag is drained. The molten iron runs into torpedo ladles that are on rail tracks. These ladles are then transported to the steelmaking area.

Slag is a by-product of ironmaking. It is made up of molten limestone which has absorbed the impurities from the process. It is removed from the blast furnace and allowed to cool. The slag is then crushed and used by other industries to make cement, as a soil substitute and in the making of roadways.

Gases are also produced during the process. They are used elsewhere in the steelworks to generate energy, e.g. in reheating solid steel before hot rolling.

Steelmaking

The Basic Oxygen Steelmaking (BOS) process creates liquid steel from molten iron, scrap steel and alloying materials.

- a) The first step is charging the BOS vessel, which is one-fifth filled with steel scrap, to which molten iron is added until the vessel is full (around 280 tonnes per batch).
- b) The BOS vessel is then stood upright and a lance is lowered down into it. The lance blows 99 per cent pure oxygen onto the steel and iron, causing the temperature to rise to about 1700°C. This melts the scrap, lowers the carbon content of the molten iron and helps remove unwanted elements.
- c) Fluxes (burnt lime or dolomite) are then fed into the vessel to form slag which absorbs impurities of the steelmaking process. Near the end of the blowing cycle, which takes about 20 minutes, a temperature reading and samples are taken. The samples are tested and a computer analysis of the steel is done to ensure the desired chemistry is achieved.
- d) The BOS vessel is then tilted again and the steel is poured into a giant ladle. This process is called tapping the steel. In the ladle furnace, the steel is further refined by adding alloying materials which give the steel special properties required by the customer. Sometimes argon or nitrogen gas is bubbled into the ladle to make sure the alloys mix correctly. The liquid steel now contains the correct customer required chemistry.
- e) The final step occurs after the steel is removed from the BOS vessel, when the slag, filled with impurities, is poured off and cooled.

Casting

The liquid steel must be cast into shapes so that it can be rolled. This is done by continuous casting machines that mould the liquid steel into solidified blocks of steel called slabs. The liquid steel is continuously poured from the ladle into a 'bottomless' mould at the same rate as continuous steel cast slabs are extracted. This continuous cast slab is cut to desired lengths and the slabs are then cooled to ambient temperature.

Hot Rolling

The input feed slab runs continuously through five key processes (within a hot strip mill) to convert the slab to HRC.

- a) The slab is reheated in a furnace to obtain a consistent, thru thickness temperature of around 1200°C.

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- b) The heated slab has scale removed and passed through a roughing mill where the slab is reduced in thickness to around 40 mm thick (from the 230 mm thickness of the input slab). This is done via passing the slab five or seven times through a set of horizontal rolls, producing a long transfer bar.
- c) The transfer bar is then further reduced in thickness by passing through a set of five or six rolling mill stands to achieve the customer's ordered thickness.
- d) After it leaves the last rolling stand and prior to the strip being coiled up, the strip is controlled cooled.
- e) The long flat strip is coiled up by being wound up on a mandrel, banded and has its identity marked onto it.

The hot strip mill is both a shaping device and a metallurgical tool. The steel is not only made hot for ease of rolling to lighter thicknesses, but for metallurgical reasons that have a major influence in defining the product's properties.

The temperature at which hot-rolling is completed results in an oxidized strip surface. This oxide film is termed hot-mill scale.

Hot strip product can be supplied without this oxide film / scale by further processing the strip through heated acid baths that removes the hot-mill scale, a process called "Pickling". Pickled strip is generally supplied oiled to preserve this surface finish (i.e. this is noted as pickled and oiled, or abbreviated as PO).

3.5 Conclusion

For the purpose of considering whether there is an Australian industry producing like goods, the Commissioner makes this determination by considering the description of the goods as a whole. Noting the very similar physical, commercial, functional and production likenesses between the goods the subject of this continuation inquiry and the goods produced by BlueScope, the Commissioner is satisfied that there is an Australian industry producing like goods.

The Commission is satisfied that the manufacture of HRC is wholly carried out in Australia, and therefore there is an Australian industry (comprised solely of BlueScope) producing like goods.

4 AUSTRALIAN MARKET

4.1 Summary

The Commission has found that the Australian market for HRC is supplied by the Australian industry and imports, primarily from Taiwan, China and Korea.

4.2 Approach to analysis

The Commission has examined data from the ABF import database and financial data from the Australian industry from 1 January 2013 to 31 December 2016. The Commission compared this to the data reported in REP 188 (covering both the investigation period of 1 April 2011 to 31 March 2012 and the then injury analysis period from 1 April 2008) for the purpose of analysing trends in the market for the goods covered by the notice and assessing potential injury factors.

The Commission notes that for data derived from the original investigation it was presented on the basis of years ending March, whereas the data obtained in the inquiry is presented on the basis of years ending December. Accordingly, both in this chapter and the next (the Commission's analysis of the economic condition of the Australian industry), there is a gap in the verified data from 31 March 2012 until 1 January 2014.

The Commission also notes that BlueScope is an integrated manufacturer which utilises a portion of the HRC produced as an input to the production of other steel products (such as zinc coated (galvanised) steel). As this HRC does not enter the market for HRC generally, the Commission has confined its analysis to HRC produced and sold by BlueScope in that form.

The Commission's detailed analysis is contained in **Confidential Attachment 1** and **Confidential Attachment 2**.

4.3 Commission analysis of the market

The Commission has found that the Australian market for the goods was approximately 480,000 tonnes during the inquiry period, with HRC sold into three main market segments in Australia: automotive; general manufacturing; and pipe and tube. The market is supplied by BlueScope and from imports from the countries subject to measures, as well as imports from other countries not subject to measures (such as China, New Zealand and Belgium).¹⁹ Anti-dumping measures currently apply to only the goods exported from the subject countries.

¹⁹ The Commission notes that exports from New Zealand are from a subsidiary of BlueScope; for the purpose of the following analysis, the Commission has treated these as being part of the Australian industry's sales (as was the approach taken in REP 188, to enable a consistent comparison).

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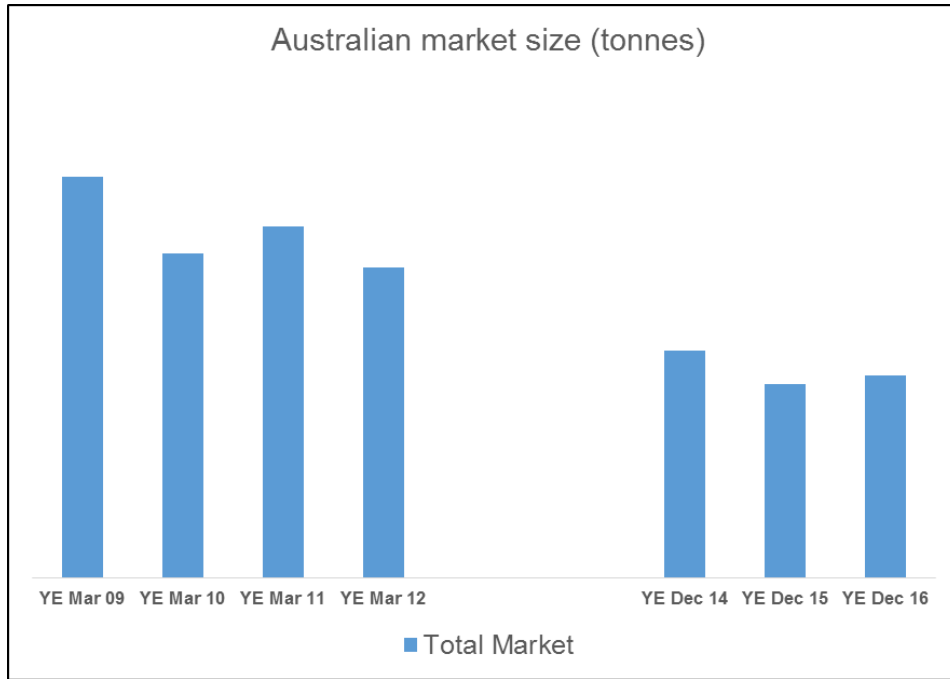


Figure 1: Australian market for HRC, 2009 to 2016

Figure 1 demonstrates that the size of the market fluctuates from year to year, but the market has been consistently smaller over the last three completed calendar years than was the case during the original investigation.

HRC in Australia is predominantly sold into the automotive, general manufacturing, and pipe and tube sectors. Demand in these sectors is, in turn, largely driven by prevailing economic conditions in the markets into which these products are then sold. Figure 2, below, comes from the Australian Industry Group’s *Performance of Manufacturing Index* data for August 2017; it shows that manufacturers of metal products and machinery and equipment (a group which the Commission considers is a reasonable proxy for the downstream HRC market) have experienced generally declining demand in the period from 2011 to 2016, but have moved into a growth phase in late 2016 which has continued into 2017. This broadly coincides with the trends shown in Figure 1.

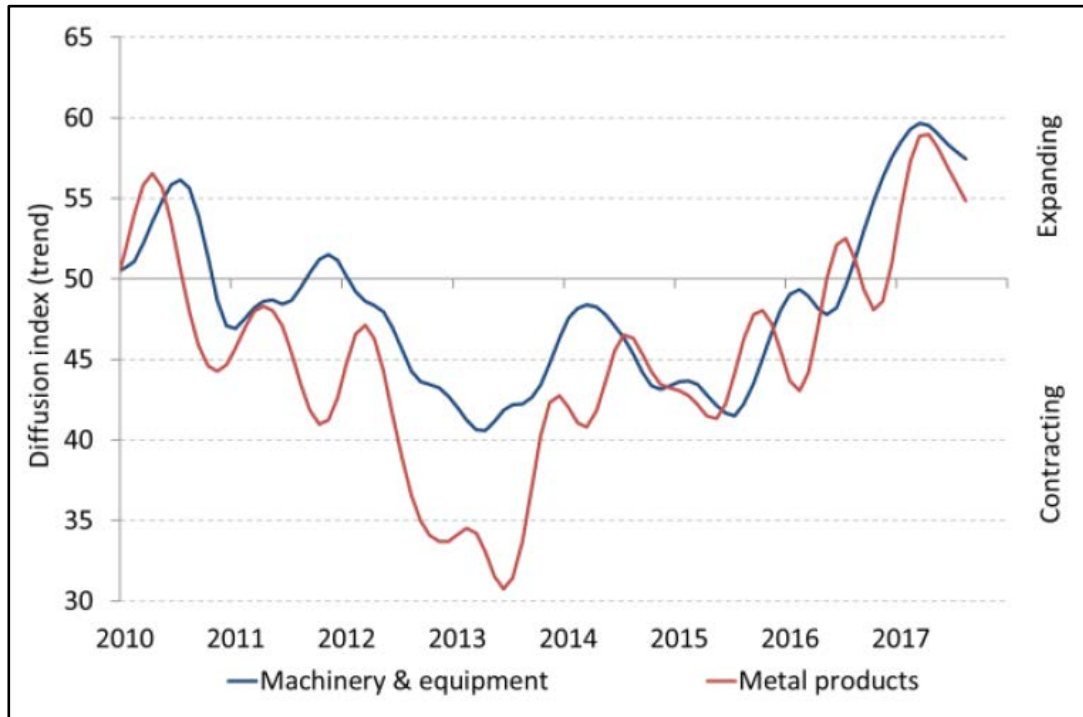


Figure 2 – Relative manufacturing performance in certain sectors relevant to HRC

Source: Australian Industry Group *Performance of Manufacturing Index (PMI), metal products sector*²⁰

For many years, Australia’s automotive manufacturing industry comprised three original equipment manufacturers of passenger vehicles, supported by an extensive supply chain of parts and accessory manufacturers. As of 20 October 2017, the last of these original equipment manufacturers will cease operation. The Commission’s understanding is that demand for HRC supplied to the automotive sector has already been in decline over several years as the number of new passenger vehicles being manufactured in Australia has decreased. The Commission also understands that competition for sales in non-automotive sectors is becoming more aggressive as a result.

4.3.1 Market structure

HRC produced by BlueScope mostly competes with the imported goods at the wholesale or distribution levels of trade. These customers then on-sell the HRC to end users or to other resellers (for example, for further working - e.g. slitting - before sale to the end user). Figure 3, below, shows the distribution channels relevant to the sale of HRC in Australia.

²⁰ August 2017; available from the [Australian Industry Group](#) website. A result of less than 50 points indicates that the market is shrinking; a result of greater than 50 indicates the market is growing. So, notwithstanding the apparent improving trend between 2013 and 2016 for the metal products category, this indicates that the market was still shrinking, albeit at a comparatively slower rate.

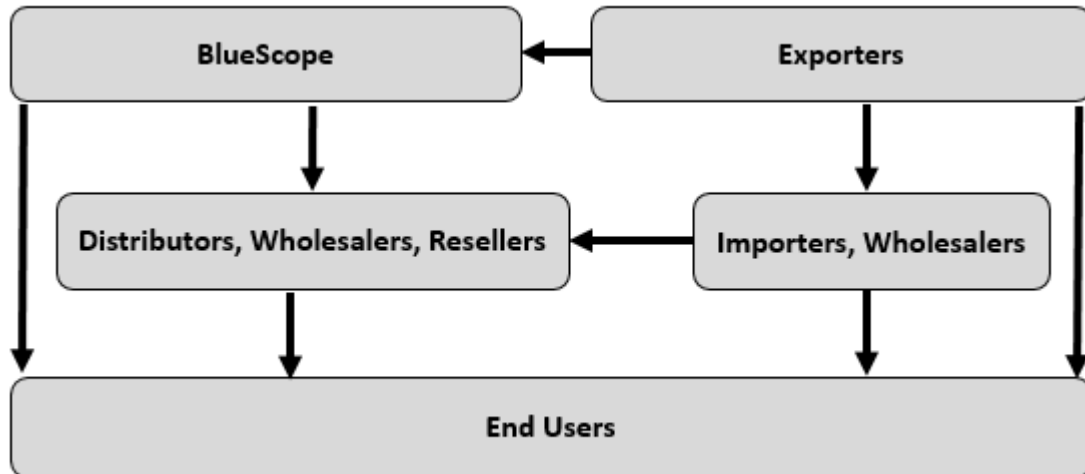


Figure 3 – Distribution channels for HRC in Australia

BlueScope is the largest supplier, by both volume and value, of HRC in the Australian market, and sells to both related and unrelated customers. Amongst its related parties are BlueScope Distribution Pty Ltd (BD) and Orrcon Distribution Pty Ltd (Orrcon), both of which operate at the distributor level of trade, and which the Commission has confirmed are treated the same as unrelated customers in relation to pricing and the terms of sale. Further, both BD and Orrcon import HRC to meet certain customer requests, albeit in small volumes.²¹ The Commission notes that BlueScope consumes a portion of its own HRC production in the manufacture of other products; BlueScope also exports a portion of its HRC production.²²

The Commission notes that the HRC imported from New Zealand was product which is outside of BlueScope’s manufacturing capability. Further, the Commission notes that BlueScope imported small volumes of HRC during the inquiry period, including from one of the countries nominated in this continuation inquiry. BlueScope has advised that this importation was specific to a one-off, strategic project; the Commission has confirmed that the importation occurred over a limited period of time, and represented less than 1 per cent of BlueScope’s total sales of HRC during the inquiry period.

Imports of the goods from the countries subject to measures accounted for approximately 55 per cent of all imports during the inquiry period.

²¹ Australian industry visit report, [document 027](#) refers.

²² The Commission notes its findings in the context of [Anti-Dumping Commission Report No. 370](#), concerning galvanised steel exported from India, Malaysia and Vietnam. All of BlueScope’s production of galvanised steel utilised its own production of HRC.

4.3.2 Pricing

BlueScope operates an import benchmark pricing strategy. Known import offers in the market are used to determine at what level to set its selling price, but also as a tool by customers to negotiate lower prices. The Commission has confirmed that customers are using pricing offers for HRC exported from Korea and Taiwan to negotiate lower prices from BlueScope.²³

As there are similar standards, grades, thicknesses and widths for HRC required by customers and HRC is otherwise a commodity product, the Commission understands that price is generally the main factor which influences a customer's purchase decision. The Commission has observed that BlueScope uses rebates and discounts; further, in the circumstances where BlueScope is able to command a higher price (or a "premium") in recognition of its ability to supply to shorter lead times or through the provision of extra services (such as slitting), this amount fluctuates depending on prevailing market conditions. BlueScope noted at the industry visit that it incurs additional costs for providing these services.

²³ *Confidential Attachment 3* to the BlueScope visit report (document 027) refers.

5 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

5.1 Approach to analysis

This chapter considers the economic condition of the Australian industry since 2009. The Commission notes that the anti-dumping measures took effect from 20 December 2012, and have remained unchanged since that time. The analysis detailed in this chapter is based on verified financial information submitted by BlueScope, inclusive of sales to both external customers and related parties. As noted in the previous chapter, HRC consumed by BlueScope for further processing has been excluded from this analysis.

The years ending March (YEM) in the period from 1 April 2008 to 31 March 2012 (the period examined in REP 188, inclusive of the investigation period 1 April 2011 to 31 March 2012) and the calendar years in the period from 1 January 2014 to 31 December 2016 have both been examined for the purposes of identifying trends in the economic condition of the Australian industry before and after the imposition of the anti-dumping measures. The Commission's graphs have been produced using a consistent scale for volumes, prices, costs, profit and profitability.

The original data and analysis on which the Commission has relied to assess the economic position of the Australian industry is at **Confidential Attachment 2**.

Consideration of whether it is likely, in the absence of the anti-dumping measures, that material injury caused by dumping (as opposed to other factors) will continue or recur is considered in Chapter 7 of this report.

5.2 Findings in original investigation

It was found in REP 188 that BlueScope had experienced injury in the form of:

- price suppression;
- price depression;
- lost revenue; and
- lost profits and profitability.

5.3 Volume effects

5.3.1 Sales volume

The following graph shows BlueScope's total sales volumes for HRC in the Australian market since April 2008. The Commission observes (as was shown in Figure 1 in the previous chapter) that there has been a general decline in the size of the market over that time.

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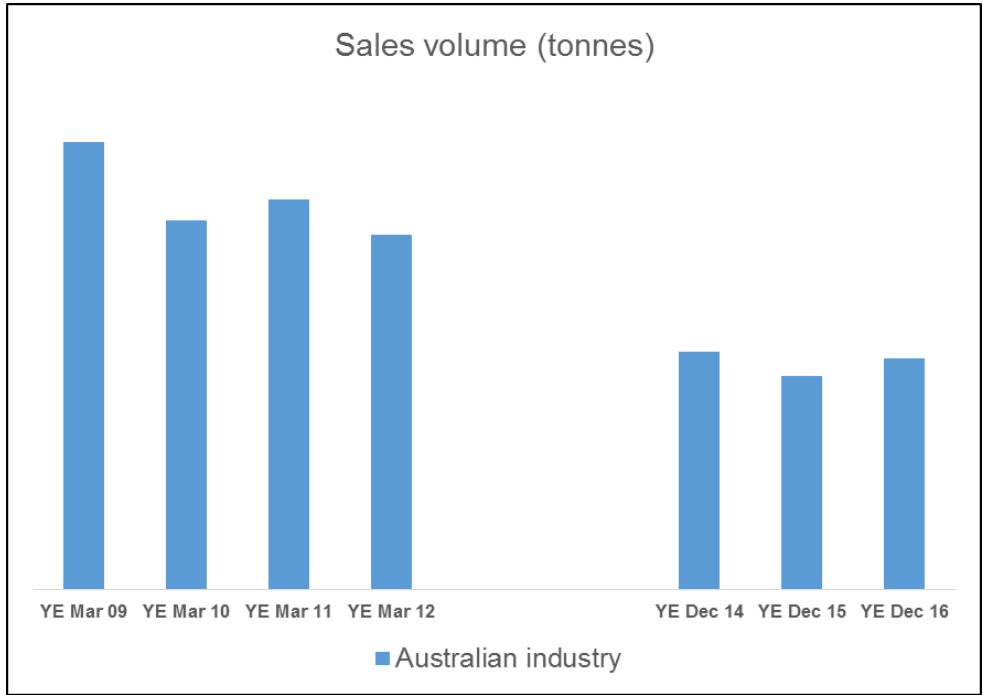


Figure 4 – Australian industry sales volume

5.3.2 Market share

Figure 5, below, shows movements in market share.

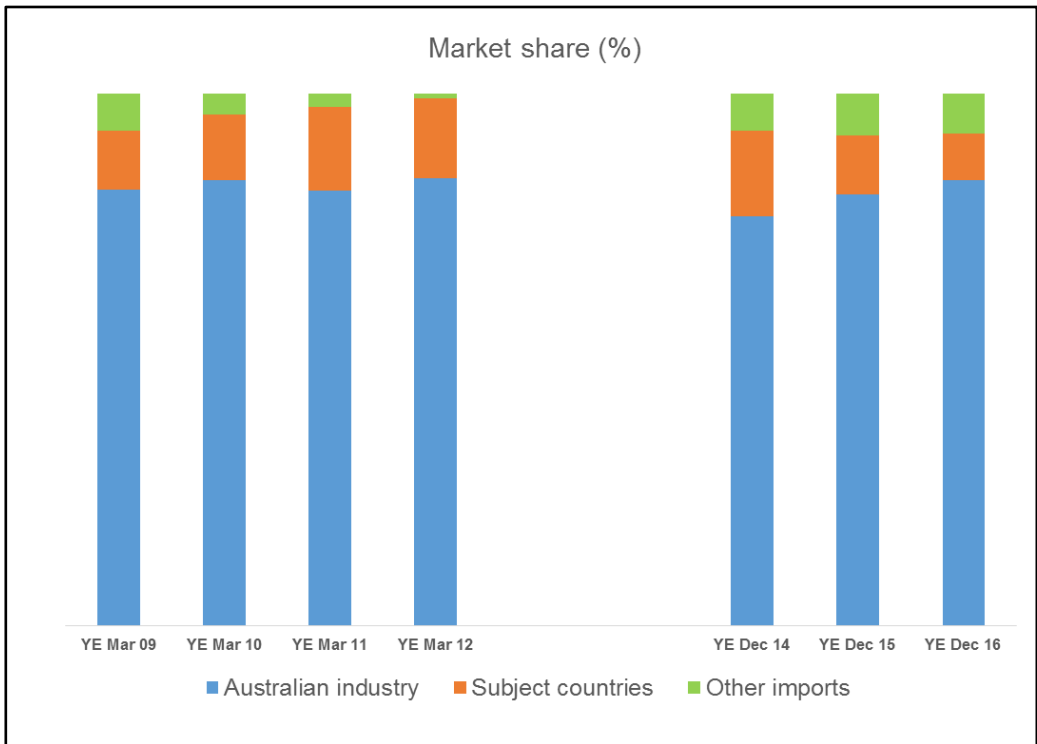


Figure 5 – Australian market shares

The share of the market supplied by exports from other countries (including China) has remained relatively stable. BlueScope has largely maintained (and recently increased) its share of the HRC market since 2009, albeit in a market which has declined in size overall.

5.4 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The following graph compares BlueScope’s unit price and unit cost to make and sell (CTMS) for HRC from April 2008.

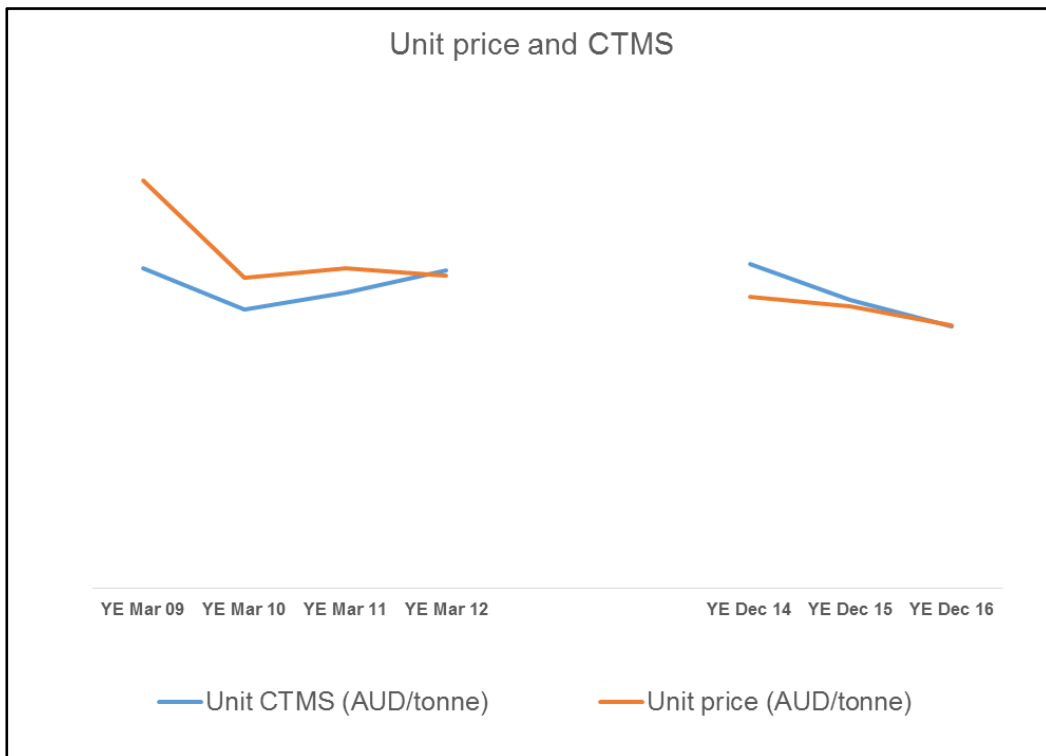


Figure 6 – Comparison of unit price and unit CTMS for Australian industry

BlueScope moved from a profitable to an unprofitable position on a per unit basis in the period from the YEM 2009 to the YEM 2012 (hence the finding that BlueScope had experienced both price depression and price suppression in the course of REP 188). In the period following the imposition of measures, BlueScope’s unit prices have fallen, but its unit CTMS has fallen at a comparatively faster rate.

5.5 Profit and profitability

The following graph shows trends in BlueScope’s profit and profitability.²⁴

²⁴ As a percentage of sales revenue.

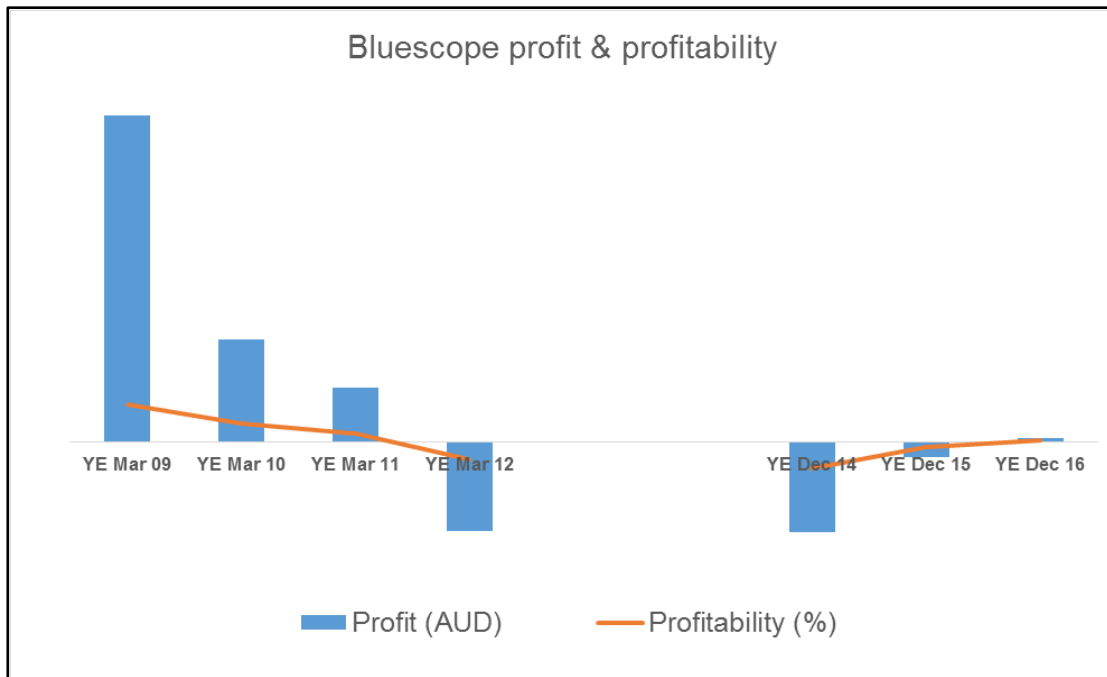


Figure 7 – Comparison of profit and profitability

The Commission notes that BlueScope has embarked on significant cost cutting within its overall business, which has contributed to the improved outcome in 2016.²⁵

5.6 Other injury factors

The Commission makes the following observations on the information provided by BlueScope in relation to other injury factors between 1 January 2014 and 31 December 2016:

- Assets applied towards the production of HRC marginally fell, as did assets applied to other production;
- Capital investment in relation to HRC marginally increased, with small fluctuations between the years. Capital investment in relation to other production remained relatively stable, with small fluctuations between the years;
- Research and development investment in relation to HRC marginally increased while research and development investment in relation to other goods has remained relatively stable;
- Revenue from the production of HRC remained relatively stable, while revenue from other production marginally fell;
- Return on income for HRC and other production has improved;
- Capacity allocated to HRC has marginally increased, while capacity allocated to other production has marginally decreased;
- Capacity utilisation for HRC and other production has increased;

²⁵ For example, BlueScope's [annual reports](#) refer to restructuring and cost reduction efforts since 2012.

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- Employment numbers has reduced;
- Productivity has improved; and
- Wage payments overall declined, while average wage payments marginally increased.²⁶

²⁶ [Document 027](#) refers.

6 ASCERTAINMENT OF VARIABLE FACTORS

6.1 Finding

For the purpose of assessing whether the continuation of the anti-dumping measures is required to prevent the continuation or recurrence of dumping, the Commissioner has ascertained all variable factors relevant to the taking of the measures during the inquiry period. The Commissioner has found that the variable factors²⁷ have changed for all exporters.

6.2 Legislative framework

As noted previously, subsection 269ZHF(1) requires the Commissioner to consider the variable factors in his report to the Parliamentary Secretary for the purpose of assessing whether the notice ought to remain unaltered, whether it ought to be altered to apply different variable factors and so on. In accordance with subsection 269ZHF(2), the Commissioner must not recommend that the Parliamentary Secretary take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping. As a result, the Commission has examined the variable factors applying to HRC exported to Australia from the subject countries during the inquiry period.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out below.

Dumping margins are determined under section 269TACB.

6.3 Calculation of dumping margins

For all dumping margins calculated for the purposes of this inquiry, the Commission compared the weighted average export prices over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

6.3.1 Uncooperative exporters

Subsection 269T(1) provides that an exporter is an “uncooperative exporter”, where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation, within a period the Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

²⁷ The variable factors are export price and normal value, as examined in this Chapter and non-injurious price as examined in Chapter 8.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states at subsection 8(b)(i) that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.

After having regard to the Direction, the Commissioner has determined that all exporters which did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the legislated period (being 37 days, concluding on 11 May 2017), are uncooperative exporters for the purposes of this inquiry.

6.4 China Steel Corporation (Taiwan)

The Commission conducted an onsite verification of the data submitted by China Steel Corporation (CSC) in its REQ.²⁸ The Commission is satisfied that the information provided by CSC is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

6.4.1 Export price

The Commission is satisfied that CSC is the exporter and the goods were exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter.

The export price for CSC was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.4.2 Normal value

The Commission is satisfied that there are sufficient volumes of domestic sales of HRC, for all models exported to Australia, that were arms length transactions and at prices that were within the ordinary course of trade (OCOT). The Commission is therefore satisfied that the prices paid in respect of domestic sales of HRC are suitable for assessing normal value under subsection 269TAC(1).

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with subsection 269TAC(8), are necessary to ensure fair comparison of normal values with export prices.

Adjustments

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

²⁸ The visit report is [Document 022](#) on the EPR.

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct the cost of domestic inland transport
Domestic sales commission	Deduct the cost of domestic sales commission
Domestic credit cost	Deduct the cost of domestic credit
Export inland transport	Add the cost of export inland transport
Export handling and other	Add the cost of export handling and other
Export bank charges	Add the cost of export bank charges
Export trading company service fee	Add the cost of the trading company service fee
Export related charges	Add the cost of export related charges
Specification adjustment	For models with no, or insufficient sales in the OCOT
Timing	Add or deduct the difference in timing

Table 8 – Adjustments to normal value for CSC

6.4.3 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by CSC for the inquiry period. The margin is **negative 1.8 per cent**.

The Commission’s calculations are included at **Confidential Attachment 3**.

6.5 Chung Hung Steel Corporation (Taiwan)

The Commission elected not to conduct an onsite verification of the data submitted by Chung Hung Steel Corporation (Chung Hung) in its REQ. The Commission conducted a risk assessment of all information available to it about the goods exported by Chung Hung from Taiwan and compared that information with verified data obtained from the two other Taiwanese exporters at which onsite verification visits were conducted. The Commission is satisfied that the information provided by Chung Hung is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

6.5.1 Export price

The Commission is satisfied that Chung Hung is the exporter and the goods were exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter.

The export price for Chung Hung was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.5.2 Normal value

The Commission is satisfied that there are sufficient volumes of domestic sales of HRC, for all models exported to Australia, that were arms length transactions and at prices that were within the OCOT. The Commission is therefore satisfied that the prices paid in respect of domestic sales of HRC are suitable for assessing normal value under subsection 269TAC(1).

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In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with subsection 269TAC(8), are necessary to ensure fair comparison of normal values with export prices.

Adjustments

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct the cost of domestic inland transport
Domestic warranty expense	Deduct the cost of domestic warranty expenses
Domestic credit cost	Deduct the cost of domestic credit
Export inland transport	Add the cost of export inland transport
Export survey fee	Add the cost of export survey fees
Export customs brokerage	Add the cost of export customs brokerage
Export handling and other	Add the cost of export handling and other
Export bank charges	Add the cost of export bank charges
Export related charges	Add the cost of export related charges
Specification adjustment	For models with no, or insufficient sales in the OCOT
Timing	Add or deduct the difference in timing

Table 9 – Adjustments to normal value for Chung Hung

6.5.3 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Chung Hung for the inquiry period. The margin is **negative 2.6 per cent**.

The Commission's calculations are included at **Confidential Attachment 3**.

6.6 Shang Chen Steel Co., Ltd (Taiwan)

The Commission conducted an onsite verification of the data submitted by Shang Chen Steel Co., Ltd (Shang Chen) in its REQ.²⁹ The Commission is satisfied that the information provided by Shang Chen is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

6.6.1 Export price

The Commission is satisfied that the goods were exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter.

²⁹ The visit report is [Document 032](#) on the EPR.

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The export price for Shang Chen was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.6.2 Normal value

The Commission is satisfied that there are sufficient volumes of domestic sales of HRC, for all models exported to Australia, that were arms length transactions and at prices that were within the OCOT. The Commission is therefore satisfied that the prices paid in respect of domestic sales of HRC are suitable for assessing normal value under subsection 269TAC(1).

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with subsection 269TAC(8), are necessary to ensure fair comparison of normal values with export prices.

Adjustments

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Domestic packing	Deduct the cost of domestic packing
Domestic inland transport	Deduct the cost of domestic inland transport
Domestic warranty expense	Deduct the cost of domestic warranty expense
Domestic credit cost	Deduct the cost of domestic credit
Export packing	Add the cost of export packing
Export inland transport	Add the cost of export inland transport
Export handling and other	Add the cost of export handling and other
Export related charges	Add the cost of export related charges
Export warranty expense	Add the cost of export warranty expenses
Export commissions	Add the cost of export commissions
Export bank charges	Add the cost of export bank charges
Specification adjustment	For models with no, or insufficient sales in the OCOT
Timing	Add or deduct the difference in timing

Table 10 – Adjustments to normal value for Shang Chen

6.6.3 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Shang Chen for the inquiry period. The margin is **negative 9.2 per cent.**

The Commission's calculations are included at **Confidential Attachment 3.**

6.7 Hyundai Steel Company (Korea)

The Commission conducted an onsite verification of the data submitted by Hyundai Steel Company (Hyundai Steel) in its REQ.³⁰ The Commission is satisfied that the information provided by Hyundai Steel is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

6.7.1 Export price

The Commission is satisfied that the goods were exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter.

The export price for Hyundai Steel was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.7.2 Normal value

The Commission is satisfied that there are sufficient volumes of domestic sales of like goods, for all models of the goods in coils exported to Australia, that were arms length transactions and at prices that were within the OCOT. The Commission is therefore satisfied that the prices paid in respect of domestic sales of certain HRC are suitable for assessing normal value under subsection 269TAC(1).

The Commission is not satisfied that it found sufficient volumes of domestic sales of like goods for a subset of the goods, hot rolled sheet, for all models exported to Australia. The verification team therefore calculated normal values for hot rolled sheet under subsection 269TAC(2)(c).

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with subsection 269TAC(8), are necessary to ensure fair comparison of normal values with export prices. The Commission considers that for normal value calculated under subsection 269TAC(2)(c), certain adjustments, in accordance with subsection 269TAC(9), are necessary to ensure fair comparison of normal values with export prices.

Adjustments

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsections 269TAC(8) and (9), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

³⁰ The visit report is [Document 031](#) on the EPR.

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Adjustment Type	Deduction/addition
Domestic inland transport	Deduct the cost of domestic inland transport
Domestic credit expense	Deduct the cost of domestic credit expense
Domestic warranty expense	Deduct the cost of domestic warranty expense
Domestic payment guarantee charges	Deduct the cost of domestic payment guarantee charges
Domestic warehousing	Deduct the cost of domestic warehousing
Domestic inventory carrying	Deduct the cost of domestic inventory carrying
Export inland transport	Add the cost of export inland transport
Export packing	Add the cost of export packing for sheet
Export credit expense	Add the cost of export credit expense
Export handling and other	Add the cost of export handling and other
Export bank charges	Add the cost of export bank charges
Export customs brokerage	Add the cost of export customs brokerage
Export inventory carrying	Add the cost of export inventory carrying
Timing	Add or deduct the difference in timing

Table 11 – Adjustments to normal value for Hyundai Steel

6.7.3 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Hyundai Steel for the inquiry period. The margin is **negative 1.0 per cent**. The Commission’s calculations are included at **Confidential Attachment 3**.

6.8 POSCO (Korea)

The Commission elected not to conduct an onsite verification of the data submitted by POSCO in its REQ. The Commission conducted a risk assessment of all information available to it about the goods exported by POSCO from Korea and compared information provided by POSCO in its REQ with other verified data obtained from another Korean exporter at which an onsite verification visit was conducted. The Commission is satisfied that the information is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

The Commission observed that some export transactions identified by POSCO were in respect of HRC it produced but which were sold via an intermediary. POSCO explained that the intermediary would also undertake some further value adding (such as slitting or producing sheet from coil), but that some products were exported by the intermediary in the same form as we supplied by POSCO. In the absence of cooperation by the intermediaries in this inquiry, the Commission considers that the goods traded by the intermediaries were not exported by POSCO, and these transactions have therefore been excluded from the calculation of POSCO’s export price and normal value.

6.8.1 Export price

The Commission is satisfied that POSCO is the exporter and the goods were exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer from the exporter.

The export price for POSCO was calculated under subsection 269TAB(1)(a), as the price paid by the importer to the exporter, less transport and other costs arising after exportation.

6.8.2 Normal value

The Commission is satisfied that there are sufficient volumes of domestic sales of HRC, for all models exported to Australia, that were arms length transactions and at prices that were within the OCOT. The Commission is therefore satisfied that the prices paid in respect of domestic sales of HRC are suitable for assessing normal value under subsection 269TAC(1).

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with subsection 269TAC(8), are necessary to ensure fair comparison of normal values with export prices.

Adjustments

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8), and considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Domestic packing	Deduct the cost of domestic packing
Domestic inland transport	Deduct the cost of domestic inland transport
Domestic handling and other	Deduct the cost of domestic handling and other
Domestic warranty expense	Deduct the cost of domestic warranty expense
Domestic credit	Deduct the cost of domestic credit
Export packing	Add the cost of export packing
Export handling and other	Add the cost of export handling and other
Export credit expense	Add the cost of export credit expense
Export packaging	Add the cost of export packaging
Specification adjustment	For models with no, or insufficient sales in the OCOT
Timing	Add or deduct the difference in timing

Table 12 – Adjustments to normal value for POSCO

6.8.3 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by POSCO for the inquiry period. The margin is **negative 25.7 per cent**.

The Commission's calculations are included at **Confidential Attachment 3**.

6.9 Uncooperative and all other exporters

As provided for in subsection 269TACAB(1), for uncooperative exporters, export price and normal value were worked out in accordance with subsection 269TAB(3) and subsection 269TAC(6) respectively by having regard to all relevant information. The Commission's calculations are included at **Confidential Attachment 1**.

6.9.1 Japan

The Commission established an export price under subsection 269TAB(3), being the weighted average export price (at Free on Board (FOB)) as was reported in the ABF import database for all exporters from Japan.

The Commission established a normal value under subsection 269TAC(6), having regard to monthly steel prices reported for HRC sold in Japan at Free on Truck (FOT) level during the inquiry period.³¹ The Commission was unable to identify appropriate information to further adjust these prices to FOB level, and notes that if it were able to do so it would increase the normal value.

The Commission has established a dumping margin of **17.3 per cent** for all exporters of the goods from Japan.

6.9.2 Korea

The Commission established an export price under subsection 269TAB(3), being the weighted average export price (at FOB) as was reported in the ABF import database for all exporters from Korea other than Hyundai Steel and POSCO.

The Commission established a normal value under subsection 269TAC(6), having regard to the highest weighted average normal value established amongst the cooperating exporters (Hyundai Steel and POSCO), minus any favourable adjustments and adjusted to FOB level.

The Commission has established a dumping margin of **negative 14.3 per cent** for uncooperative and all other exporters of the goods from Korea.

³¹ The Commission had regard to Platts steel prices.

6.9.3 Malaysia

There were no exports of the goods from Malaysia during the inquiry period, and the Commission is not in possession of any information which would enable the calculation of a normal value. As a result, the Commission has not calculated a dumping margin for exporters of the goods from Malaysia.³²

6.9.4 Taiwan

The Commission established an export price under subsection 269TAB(3), being the lowest weighted average export price (at FOB) established amongst the cooperating exporters (CSC, Shang Chen and Chung Hung).

The Commission established a normal value under subsection 269TAC(6), having regard to the highest weighted average normal value of HRC established amongst the cooperating exporters (CSC, Shang Chen and Chung Hung), adjusted to FOB level.

The Commission has established a dumping margin of **3.9 per cent** for uncooperative and all other exporters of the goods from Taiwan.

6.10 Conclusion

The Commission has ascertained the following dumping margins.

Country	Exporter	Dumping Margin
Japan	All exporters	17.3%
Korea	Hyundai Steel Company	- 1.0%
	POSCO	- 25.7%
	All other exporters	- 14.3%
Malaysia	All exporters	NA
Taiwan	China Steel Corporation	- 1.8%
	Chung Hung Steel Corporation	- 2.6%
	Shang Chen Steel Co., Ltd	- 9.2%
	All other exporters	3.9%

Table 13 – Dumping margins in inquiry period

³² For the reasons set out in section 7.4.3 of this report, the Commission does not consider it necessary to ascertain the variable factors relevant to exporters from Malaysia.

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Preliminary finding

On the basis of the evidence currently available, the Commissioner is satisfied that the expiration of the current measures would lead, or would be likely to lead, to a continuation of or a recurrence of dumping of HRC by exporters from Korea and Taiwan, and would be likely to lead to a recurrence of the material injury that the measures are intended to prevent.

However, the Commissioner is not satisfied that the expiration of the current measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping of HRC by exporters from Japan and Malaysia. As a result, the Commissioner is not satisfied that the expiry of the measures in respect of these countries would lead to a continuation or recurrence of the material injury that the measures are intended to prevent.

7.2 Legislative framework

Subsection 269ZHF(2) of the Act provides that the Commissioner must not recommend that the Parliamentary Secretary take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the Anti-Dumping Review Panel, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.³³

7.3 Will dumping and material injury continue or recur?

7.3.1 Australian industry's claims

BlueScope claims that:

- HRC imports from Korea, Malaysia and Taiwan have fallen since the imposition of the original measures;
- the notice has not been reviewed since its publication on 20 December 2012;
- there are anti-dumping and countervailing measures applying in many other countries in respect of the countries and goods the subject of this continuation inquiry;

³³ [ADRP Report No. 44](#) (Clear Float Glass) refers.

- exporters of the goods from the subject countries have maintained distribution links into the Australian market since the imposition of the original measures; and
- there is overcapacity and overproduction of the goods in the regional Asian HRC market.

Therefore, BlueScope claims that it is reasonable to expect that the expiration of the current measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping.

BlueScope has claimed that, in the event the current measures are allowed to expire, exporters would direct their oversupply to Australia by lowering prices in order to increase export volumes. BlueScope has noted that it places significant importance on maintaining its sales volume, and that the lowering of prices by exporters will therefore require BlueScope to respond by reducing its own prices. This will result in a recurrence of the material injury that the anti-dumping measures are intended to prevent.

7.3.2 The Commission's approach

In assessing the likelihood of whether dumping and material injury will continue or recur a number of factors are relevant, as outlined in the Manual.³⁴ The Commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors which the Commission considers are relevant to this inquiry.

7.3.2.1 Analysis of dumping within the inquiry period

The Manual provides that the inquiry may gather facts relevant to whether dumping will resume, such as exporters' margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g. as a result of a review).

As noted previously, there has been no review of the anti-dumping measures since they were imposed in 2012. During the inquiry period, the Commission has found that all of the cooperating exporters that have exported HRC to Australia did so at undumped prices.³⁵ These cooperating exporters account for approximately 60 per cent of the total volume of exports from the subject countries.

With respect to the uncooperative exporters from Korea, these exports were also at undumped prices. The Commission notes that the uncooperative exporters from Japan and Taiwan did export the goods at dumped prices (section 6.10 refers).

7.3.2.2 Overcapacity in steel markets

The Commission's *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission* (2016 Steel Report) found that ongoing excess capacity is a significant challenge for the global steel industry, particularly in Asia.³⁶

³⁴ Pages 170-171 refer.

³⁵ Chapter 7 refers.

³⁶ [2016 Steel Report](#), at page 1.

7.3.2.3 Exports from subject countries to other markets

The Commission has observed that HRC exported from the subject countries is also subject to anti-dumping measures in other jurisdictions.

Country imposing measures	Product	Affected exporters
India	Hot-rolled flat products of alloy or non-alloy steel in coils of a width up to 2100 mm and thickness up to 25 mm. ³⁷	Japan, Korea
Thailand	Certain hot rolled steel products. ³⁸	Japan, Korea, Malaysia
USA	Certain hot-rolled carbon steel flat products. ³⁹ Certain hot-rolled steel flat products. ⁴⁰	Japan, Korea, Taiwan

Table 14 – Anti-dumping measures applying to HRC, other jurisdictions

The Commission considers that an absence of measures may make Australia a comparatively more attractive destination for exporters that are subject to measures in other jurisdictions.

7.3.2.4 Import volumes

The Manual provides that in assessing the likelihood of dumping continuing or recurring, the inquiry may gather facts relevant to whether exports are likely to continue or resume, such as the volume of exports before and after measures were imposed, or exporters' supply chains.

The Commission has established in Chapter 4 that the volume of exports from the subject countries to Australia and their respective shares of the market have changed since the measures were imposed. The Commission's analysis (in **Confidential Attachment 1**) shows that exports of HRC:

- from Malaysia to Australia have essentially ceased (there were no exports during the inquiry period, and only very small volumes in 2014 and 2015);
- from Japan have been in relatively stable volumes of only PO product, and has been predominantly sold into the automotive sectors;
- from Korea have declined in volume, but are still a significant presence in the market; and
- from Taiwan have declined in volume, but are still the largest source of imported product in the Australian market.

³⁷ The report ([F.No.14/09/2016-DGAD](#)) of the Government of India's Directorate General of Anti-Dumping & Allied Duties refers.

³⁸ [World Trade Organization notification](#) by Thailand (G/ADP/N/300/THA dated 23 August 2017) refers.

³⁹ The US Federal Register [refers](#) (continuation of measures with respect to Taiwan, 7 February 2014).

⁴⁰ The US Federal Register [refers](#) (amended final determinations, 3 October 2016).

The exporters and importers active in the market, and the grades of HRC imported, are largely unchanged from the time of the original investigation (with the exception of exporters from Malaysia). As was shown in Figure 5, notwithstanding the decline in market size overall, the subject countries' share of the market has also declined since the measures were imposed.

7.3.2.5 Impact of measures on prices

The Manual provides that the inquiry may gather facts relevant to prices of exports compared to the non-injurious price (NIP), and the relevance of the measures to selling prices.⁴¹

The Commission notes that there is a clear differential between prices for PO and bare HRC; as can be seen from **Confidential Attachment 1**. The absence of detailed information in the goods description in the ABF import database makes it impossible to distinguish prices by finish type for all exporters for all consignments. The lack of cooperation from all importers and exporters in this inquiry makes direct price comparisons potentially misleading, since the mix of model types (not simply between PO and bare HRC, but differing widths, thicknesses etc.) can substantially influence the prices obtained.

The Commission's analysis of prices can be seen in **Confidential Attachment 4**. The Commission has taken FOB prices from the subject countries, China and all other countries (excluding New Zealand) as declared in the ABF import database and added importation costs (equivalent to the values demonstrated by the most efficient importer verified in this inquiry) and a weighted average of ocean freight and insurance costs from cooperating exporters during the inquiry period. The Commission has compared these to an ex works (EXW) equivalent price (that is, the FIS price minus delivery costs) for BlueScope. The Commission has excluded those goods which claim an exemption from dumping duties (all of which are based on tariff concession orders), as well as any goods imported by BlueScope from the countries subject to measures (which would be at prices which are, by virtue of the identity of the importer, not injurious to the Australian industry).

The analysis suggests that, for some product types during the inquiry period, HRC exported from China, Korea and Taiwan undercut equivalent Australian prices. On this analysis, and noting that other prices in the market can be lower than those from Korea and Taiwan, the Commission's interpretation is that the current measures have tended to prop up Korean and Taiwanese prices. Further, the Commission considers it likely that the absence of the measures would result in a reduction in prices by Korean and Taiwan exporters in a bid to capture greater market share and (at least in the case of Taiwan) increase their capacity utilisation.

7.3.2.6 Surplus production capacity

The Manual provides that the inquiry may gather facts relevant to whether exports are likely to continue or resume, such as exporters' production capacity.

⁴¹ For more detailed discussion on the NIP, refer to Chapter 8.

The Commission has established that the cooperating exporters all have spare production capacity for HRC, albeit varying from exporter to exporter.⁴² The Commission observes that the spare capacity available to the five cooperating exporters from Korea and Taiwan during the inquiry period was in excess of the entire Australian market.

The Commission has also analysed the broader conditions affecting steel markets in the subject countries, contained in **Appendix A** to this report, which suggests that spare capacity will remain a feature of the Asian steel market generally (and the subject countries) for the foreseeable future.

7.3.3 Views of the interested parties

In its submission, CSC points to the Commission's finding that its exports of HRC during the inquiry period were not dumped and therefore not injurious.⁴³ As a result, CSC submits that:

[t]his is the most relevant evidence to demonstrate that CSC will not resume exporting the goods at dumped prices in the absence of measures, and should form the basis of the Commission's recommendation that anti-dumping measures should not be continued.

POSCO submits that the past three investigations by the Commission involving POSCO have determined that POSCO's products have not been dumped in the Australian market.⁴⁴ Further, POSCO claims that it does not have the kind of excess capacity that is described as being typical of Chinese manufacturers, and that:

there is a significant and growing source of low-cost HRC in the Australian market which is not subject to dumping measures, and which BlueScope has not suggested is causing it material injury. This is of overwhelming importance to the question of whether injury would be likely to recur. In POSCO's view, it is completely improbable that removal of the measures would result in the recurrence of injury in these circumstances.

POSCO also notes that BlueScope's overall performance is much improved since the original investigation, and therefore the Commission ought to take this into account in determining the likelihood of future injury. In any event, POSCO submits that BlueScope imports HRC as it is unable to supply the Australian market from its own production.

The Co-Defence submits that the terms of the Act do not enable the Commission to cumulate injury in respect of a continuation inquiry.⁴⁵ Accordingly, the Co-Defence submits that the Commission ought to consider only whether exports from Japan would be dumped and injurious in their own right in order to continue the measures.

⁴² A summary of capacity utilisation for all cooperating exporters is included at **Confidential Attachment 5**.

⁴³ Submission dated 28 June 2017, [document 023](#) on the EPR.

⁴⁴ Submission dated 7 July 2017, [document 026](#) on the EPR. Two of the investigations referred to concern hot rolled plate steel (*Anti-Dumping Commission Report No. 198* and *Anti-Dumping Commission Report No. 284* refer). The third case referred to (*Anti-Dumping Commission Report No. 249*) is not in respect of goods exported from Korea.

⁴⁵ Submission dated 10 July 2017, [document 030](#) on the EPR.

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The Co-Defence points to the apparently small volume of exports from Japan in the context of the Australian market, claims that these exports are not dumped, and suggests that the original investigation found that PO HRC exported from Japan had not caused material injury. The Co-Defence submits that the measures should therefore be not continued against the Co-Defence.

BlueScope made submissions in response to the matters raised by other interested parties and on the case more generally.⁴⁶ With respect to CSC, BlueScope concludes that the finding that CSC has not been dumping indicates that the measures have been effective. BlueScope does not consider, however:

that should the measures be allowed to expire that it can be safely assumed that CSC would not recommence dumping into Australia. It cannot be ignored that other jurisdictions maintain anti-dumping measures against Taiwanese HRC exporters, including exports by CSC.

BlueScope argues that CSC's ongoing exports of HRC indicates that it and other Taiwanese exporters intend to continue supplying the Australia market and would be expected to match low export prices in the region that were not the subject of measures. This is a behaviour that BlueScope expects to see from all exporters if the measures are not continued:

BlueScope identified the Vietnam market as one that did not have a local HRC producer and was open to imports from all countries (without any anti-dumping measures applying). BlueScope highlighted actual export volumes and prices into Vietnam from Japan, Korea and Taiwan and contrasted A\$FOB export prices (Table 6 in application) with export prices to Australia where measures apply (Table 4). The A\$FOB export prices to Vietnam from the three countries were well below export prices to Australia. As China is the leading HRC supplier into the Vietnam market, the comparison demonstrates that in the absence of measures, it is likely that exporters the subject of measures will price competitively with Chinese HRC exports to Australia.

If the measures are removed, exporters will price according to the largest alternate source of supply (i.e. China). Whilst this view may be interpreted as "somewhat disingenuous" by POSCO, the reality is that the HRC exporters in Japan, Korea, Malaysia and Japan will compete with Chinese HRC exports into Australia (just as in Vietnam and any other country in the region).

BlueScope also rejects POSCO's characterisation of its imports being necessary to meet domestic demand.

With respect to the Co-Defence and its submission that exports from Japan have not been dumped, BlueScope points to the absence of any cooperation by the Japanese exporters, which prevents the Commission from accurately determining the magnitude of dumping by Japanese HRC exporters during the investigation period. BlueScope also points to the Co-Defence's representations, and submits that these rely on a number of assumptions made by the Co-Defence (such as the likely behaviour of exporters once the Australian motor vehicle industry ceases to manufacture in Australia) being accepted by the Commission. BlueScope also points to more recent anti-dumping measures imposed by other jurisdictions on Japanese HRC exporters as evidence that dumping by Japanese exporters is likely to occur if the measures are not continued.

⁴⁶ Submission dated 10 August 2017, [document 033](#) on the public record.

7.4 Commission's analysis

The Commission's approach has been to examine the claims made and evidence applying to each exporting country.

The Australian produced goods and the majority of the imported goods have similar end uses, meet similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same markets. The original investigation by the Commission indicated that price is the major factor in customers' purchasing decisions within the HRC market.⁴⁷ The evidence before the Commission in this inquiry indicates that this is still the case.

As a general principle the Commission considers that, whilst the presence (or absence) of dumping during the inquiry period may be indicative of future behaviour, this factor alone is not determinative. Noting the importance of price to the purchasing decision, the degree of dumping (and / or the impact of the present measures) and its relativity to the price of HRC from alternative sources are also relevant considerations. For the purpose of this analysis, the Commission has also excluded any imports of the goods by BlueScope, which, by their nature, would not be injurious to the Australian industry.

The Commission notes BlueScope's belief that the measures have been effective in addressing injury from dumping, but the test before the Commission is to assess whether dumping and injury caused by dumping is *likely* to continue or recur in the absence of the measures. As has been noted by interested parties, "likely" means probable, or a greater than 50 per cent chance; despite the inherent uncertainty of predicting the behaviours that will be likely to occur in the market if the measures were to end, the Commission has weighed all of the evidence which has been obtained to reach what it considers to be a logically defensible view of exactly such a prediction.

Finally, the Commission has had regard to the *Ministerial Direction on Material Injury 2012* (the Injury Direction) in its assessment of whether any injury which is likely to recur might be described as being material.⁴⁸ In particular, the Commission has noted the economic condition of BlueScope (as set out in Chapter 5) and considers that, whilst the condition is improving as a result of both the measures and other business improvement initiatives undertaken over the last five years, BlueScope nevertheless remains vulnerable to injury.

7.4.1 Japan

The Commission notes the claim by the Co-Defence that "the ABF import database will confirm that exports of HRC from Japan during the investigation period have not been dumped." The Commission considers that the counterargument put forward by BlueScope is more compelling – the Commission has no basis for assessing the claim of the Co-Defence because of the lack of exporter cooperation. The Commission further notes that, to the contrary, the goods exported from Japan during the inquiry period were at dumped prices.

⁴⁷ [REP 188](#), chapter 8 refers.

⁴⁸ The Injury Direction can be found on the Commission [website](#).

However, the Japan exporters have almost exclusively sold PO HRC to automotive manufacturers, at prices which are higher than the market for HRC generally. As has been noted previously, the manufacture of passenger vehicles in Australia will have ceased by the end of October 2017; in preparation for this fundamental change in the market, at least one known Japanese supplier of HRC is closing its Australian sales office in response. There is some evidence (referred to in **Appendix A**) that demand for automotive steel is growing in Japan, which further suggests that this market is in the midst of a fundamental shift away from Australia.

Further, the Commission notes the current measures applying to bare HRC exported from Japan, and considers that, in the context of pricing in the market overall, this product ought to have been competitive during the inquiry period; however, Japan's share of the market has declined by comparison to the other subject countries. The Commission considers that the comparative lack of Japanese exports in the Australian market during the inquiry period does not indicate that the existence of the measures is the reason for this decline.

Accordingly, whilst the Commission considers that the weight of evidence suggests that future exports from Japan may be dumped, these are unlikely to be at prices or in volumes which will cause material injury to the Australian industry.

7.4.2 Korea

The Commission notes that the majority of HRC imported from Korea during the inquiry period has been in the contested market (that is, at the level of distributors and wholesalers). These volumes have been at competitive prices and at levels which are broadly aligned to the existing measures (that is, the ascertained export price). The Commission has observed that a significant portion of the exports from Korea during the inquiry period undercut the prices obtained by BlueScope (albeit noting that this is influenced by the pricing model used by BlueScope); in other instances, the Commission observed a small number of higher value transactions during the inquiry period have certain characteristics, confidential to the parties involved, which suggest that they are not indicative of behaviours in the wider market.

The Commission has found that exports from Korea during the inquiry period were not at dumped prices. The Commission also notes that the percentage capacity utilisation for both POSCO and Hyundai Steel was high during the inquiry period, however, the spare capacity available (as noted in **Confidential Attachment 5**) was still significant in volume. It is apparent from the evidence before the Commission that BlueScope has regard to price offers in the market when setting its own prices, that Korean price offers are influential in this process, and that Korean exports have been successful in winning market share notwithstanding the present anti-dumping measures.

In these circumstances, the Commission considers it likely that dumping will recur for exports from Korea. Further, the Commission considers it likely that the dumping of HRC exported from Korea would place downwards pressure on prices in the market, and that BlueScope would respond by reducing its own prices in order to maintain its market share.

Noting the economic condition of the Australian industry and its present vulnerability, the Commission considers it likely that material injury would be experienced by BlueScope as a result of the dumping of HRC exported from Korea.

7.4.3 Malaysia

The Commission notes that, since the imposition of the measures, exports from Malaysia have almost completely ceased. There were no exports of HRC from Malaysia to Australia during the inquiry period, and, as is noted in **Appendix A**, Megasteel Sdn Bhd's (the only exporter from Malaysia individually named on the notice) Banting plant closed in September 2016.

The Commission considers that the weight of the evidence before the Commission indicates that there is no reasonable prospect of HRC being exported from Malaysia to Australia in the foreseeable future. The Commission therefore considers it unlikely that there will be future exports of HRC from Malaysia, and that it is unlikely that material injury will be experienced by the Australian industry which is caused by those goods.

7.4.4 Taiwan

As was noted previously, the goods exported from Taiwan during the inquiry period were at both dumped and undumped prices. Exporters from Taiwan have gained a substantial proportion of the import market in Australia since the measures were imposed. Further, the Commission notes that the three cooperating exporters from Taiwan had significant excess capacity during the inquiry period.

The Commission notes the analysis undertaken by BlueScope of export prices of HRC exported to Vietnam from the subject countries.⁴⁹ The Commission observes from that analysis (which is based on independent data) that exports from Taiwan are at lower prices in the Vietnam market than exports from either Korea or Japan. These prices are, according to BlueScope, also heavily influenced by prices for HRC exported from China.

The Commission has examined the prices of HRC exported to Australia from China during the inquiry period and found that they were at or below the prices from Taiwan in three of the four quarters of the inquiry period; further, exports from Taiwan and China account for the majority of imports into Australia. All of this strongly suggests that, in the absence of the current anti-dumping measures, Taiwan prices would be lowered to more directly compete with prices from China in order to gain greater market share.

Accordingly, the Commission considers that it is likely the future exports of HRC from Taiwan would be dumped on the Australian market in the absence of the current measures. Further, the Commission considers it likely that the dumping of HRC exported from Taiwan would place downwards pressure on prices in the market, and that BlueScope would respond by reducing its own prices in order to maintain its market share. Noting the economic condition of the Australian industry and its present vulnerability, the Commission considers it likely that material injury would be experienced by BlueScope as a result of the dumping of HRC exported from Taiwan.

7.5 Conclusion

Taking the above analysis into account, the Commission considers there is sufficient evidence to conclude that:

⁴⁹ *Confidential Attachment 6* to BlueScope's application for the continuation of the measures refers.

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- import volumes from Malaysia have ceased, and are highly unlikely to resume if the measures are not continued due to the lack of HRC production capacity in that country;
- import volumes from Japan are closely linked to the production of passenger vehicles in the automotive sector, and are unlikely to continue in volumes or at prices which would be injurious in the absence of the measures once that production ceases in October 2017;
- import volumes from Korea and Taiwan have continued and are likely to continue;
- price will continue to be the primary basis of competition between the imported goods and the goods produced by BlueScope;
- the goods exported from Korea and Taiwan are likely to be dumped in order to win additional market share and to improve the broader economic performance of those exporters (using the additional demand to soak up excess capacity and improve the exporters' overall recovery of the cost of production); and
- the Australian industry, having only recently returned to profitability, will be likely to come under significant price pressure from HRC exported from Korea and Taiwan, and therefore any injury to the Australian industry that continues or recurs from dumping, if the measures are removed, is likely to be material.

As a result, the Commission is satisfied that the expiration of the measures applying to exporters of HRC from Korea and Taiwan would lead, or would be likely to lead, to a continuation of or a recurrence of the dumping and material injury that the anti-dumping measures are intended to prevent.

The Commission is satisfied that the expiration of the measures applying to exporters of HRC from Japan and Malaysia would not be likely to lead to a continuation or recurrence of dumping, or the continuation or recurrence of material injury to the Australian industry caused by dumping.

8 NON-INJURIOUS PRICE AND LESSER DUTY RULE

8.1 Non-Injurious Price

The NIP is defined in section 269TACA as “the minimum price necessary ... to prevent the injury, or a recurrence of the injury” caused by the dumped or subsidised goods the subject of a dumping duty notice or a countervailing duty notice. The NIP is ordinarily determined by having regard to the Australian industry’s selling prices from a period where the industry is not affected by dumping.

8.2 Lesser Duty Rule

The calculation of the NIP is relevant for the purposes of the lesser duty rule under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).⁵⁰

The level of dumping duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping, but, where the NIP of the goods is less than the normal value of the goods, the Parliamentary Secretary must also have regard to the desirability of fixing a lesser amount of duty.

However, pursuant to subsection 8(5BAA) of the Dumping Duty Act, the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. Neither of those circumstances (being the composition of the Australian industry or the method of ascertaining normal value in circumstances of a particular market situation in the country of export) are relevant to the present inquiry.

8.3 Calculation of the NIP

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission’s preferred approach to establishing the USP is set out in Chapter 23 of the Manual and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

⁵⁰ Subsection 8(5B) of the Dumping Duty Act.

8.4 Discussion

In REP 188, the then ACBPS determined the USP to be a price equal to the respective normal value for each exporter. In the case of exports to the automotive sector, ACBPS found that BlueScope Steel's sales were not impacted, and therefore a NIP for PO HRC exports from Japan was determined using the actual export prices found during the investigation period. ACBPS found the NIP to be equal to determined export prices and therefore a floor price equal to the export price was used. For all other exports, ACBPS found that the lesser duty rule did not come into effect.⁵¹

BlueScope has submitted that it considers the methodology applied in REP 188 to be still appropriate in this inquiry, and therefore supports a USP which is based upon import parity pricing.⁵² There have been no other submissions on this point.

The Commission considers that, if the proposed recommendation to continue the measures in respect of HRC exported from Korea and Taiwan is accepted and the NIP is based on the FOB normal value for each exporter as established in this inquiry, the lesser duty rule has no effect as section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* is not enlivened.

⁵¹ [REP 188](#), pages 76-79 refer.

⁵² [Document 028](#) on the public record refers.

9 PROPOSED MEASURES

9.1 Finding

Having established that dumping and material injury is likely to continue or recur if the anti-dumping measures are not continued for the goods exported from Korea and Taiwan, the Commissioner proposes to recommend that the Parliamentary Secretary secure the continuation of the measures applying to the goods exported to Australia from Korea and Taiwan.

Based on the information available at this stage of the inquiry, the Commissioner proposes to recommend that, in continuing the anti-dumping measures in respect of all exporters from Korea and for the cooperating exporters from Taiwan (i.e. CSC, Chung Hung and Shang Chen), IDD be calculated based on the floor price duty method for all exporters that were found to be not dumping.

In the case of all other exporters of HRC from Taiwan, the Commissioner proposes to recommend that IDD be calculated based on the combination duty method.

9.2 Existing measures

The method of IDD currently applied to the goods is the combination duty method. The notice published in respect of the goods specifies different variable factors for hot rolled and PO oiled finishes of the goods for each exporter.

9.3 Forms of duty available – dumping

The forms of duty available to the Parliamentary Secretary when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).⁵³

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. In considering which form of duty to recommend to the Parliamentary Secretary, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines)⁵⁴ and relevant factors in the market for the goods.

⁵³ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

⁵⁴ The Guidelines are available on the Commission [website](#).

9.3.1 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Parliamentary Secretary exercises powers to ascertain an amount for the export price and the normal value.

9.3.2 Floor price duty method

The floor price duty method sets a “floor” – for example a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the NIP, whichever becomes applicable under the duty collection system.

This duty method does not use an ascertained export price as a form of “floor price” as occurs with the combination and fixed duty methods.

9.3.3 *Ad valorem* duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin.

9.3.4 Combination duty method

The combination duty comprises two elements: the “fixed” element and the “variable” duty element. The fixed element is determined when the Parliamentary Secretary exercises powers to “ascertain” an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the ascertained export price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price). It is called a “variable” element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

9.4 Conclusion

The Commission notes its earlier findings that the goods exported from Korea and the goods exported from Taiwan by the cooperating exporters were at undumped prices, that the goods exported from Taiwan by the uncooperative exporters were at dumped prices, and that it is necessary to continue the measures to prevent a continuation of or recurrence of dumping and a recurrence of material injury. The Commission also notes CSC’s contention that the appropriate means of determining the variable factors be revised, and that any measures be based on the ascertained normal value (which represents an undumped price).⁵⁵

⁵⁵ [Document 023](#) on the EPR refers.

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After having regard to these factors and the Guidelines, the Commissioner considers that the floor price duty method is the appropriate form of measures for all exporters of the goods from Korea and Taiwan that were found to be not dumping during the inquiry period. The Commissioner proposes that the measures be altered, and a floor price be set for each exporter by reference to the respective normal values ascertained during the inquiry period.

The Commissioner considers that the uncooperative exporters of the goods from Taiwan ought to be subject to the combination duty method. The Commissioner recommends that the variable amount of IDD be calculated by reference to the weighted average ascertained export price established for the uncooperative exporters from Taiwan during the inquiry period, and that a fixed amount of IDD be calculated by reference to the dumping margin established for those exporters.

The Commissioner proposes to recommend that the measures be allowed to expire for the goods exported from Japan and Malaysia.

The following table summarises the effect of these recommendations.

Country	Exporter	Fixed rate of duty	Variable (basis of floor price component)
Japan	All exporters	No measures	No measures
Korea	POSCO	NA	Ascertained normal value -Confidential
	Hyundai Steel Company	NA	Ascertained normal value -Confidential
	All other exporters	NA	Ascertained normal value -Confidential
Malaysia	All exporters	No measures	No measures
Taiwan	China Steel Corporation	NA	Ascertained normal value -Confidential
	Chung Hung Steel Corporation	NA	Ascertained normal value -Confidential
	Shang Chen Steel Co., Ltd	NA	Ascertained normal value -Confidential
	All other exporters	3.9%	Ascertained export price - Confidential

Table 15: Proposed measures applying to exports of HRC

APPENDICES AND ATTACHMENTS

Appendix A	Analysis of Steel Markets in the Subject Countries
Confidential Attachment 1	Market Analysis
Confidential Attachment 2	Economic Condition of the Australian Industry
Confidential Attachment 3	Dumping Margin Calculations
Confidential Attachment 4	Price Analysis
Confidential Attachment 5	Exporter Capacity Analysis

APPENDIX A - ANALYSIS OF STEEL MARKETS IN THE SUBJECT COUNTRIES

Japan

Capacity and Production

Steelmaking capacity has been estimated to be 131.1 million tonnes in 2014 and is expected to fall to 129.1 million tonnes by 2017, which is a decrease of 1.5 per cent. Crude steel production has dropped from 110.7 million tonnes in 2014 to 104.8 million tonnes by the end of 2016 – a fall of 5.3 per cent. Production of hot-rolled steel products specifically has dropped from 97.9 million tonnes in 2014 to 92.6 million tonnes in 2017 – a fall of 5.4 per cent.⁵⁶

Demand

Japan has seen domestic demand for ordinary steel increase by 2.1 per cent in 2016, led primarily by a 2.5 per cent increase in ordinary steel orders to the construction industry. In the manufacturing sector, steel orders were up for the first time in two years, increasing by 1.4 per cent in 2016. The automotive industry also contributed to an increase in demand as automobile manufacturers moved production back to Japan.⁵⁷

Export demand decreased for the first time in two years, down by 1.5 per cent as a result of a global oversupply of steel caused by China's growth in exports.⁵⁸

Exports

Japan is the second-largest steel exporter in the world, representing 9 per cent of all steel exported globally in 2016. By March 2017, Japan exported 9.7 million tonnes of steel, however this is 5 per cent lower than that exported at the same time in 2016. Japan exports steel to more than 190 countries worldwide with the top markets being South Korea, Thailand and China.⁵⁹

Other Trade Remedies

Currently there are 30 trade remedy related sanctions (in 10 countries) in place against Japanese steel products.⁶⁰

⁵⁶ Data sourced from the [Japan Iron and Steel Federation](#).

⁵⁷ *ibid.*

⁵⁸ *ibid.*

⁵⁹ International Trade Administration (2017), [Steel Exports Report: Japan](#).

⁶⁰ *ibid.*

Malaysia

Capacity

The Commission does not have any information to suggest that there is any HRC manufacturing capacity in existence in Malaysia following the closure of Megasteel Sdn Bhd's Banting plant in September 2016.

Demand

Production of crude steel has been in decline in Malaysia since 2011, reaching 3.8 million tonnes in 2015.⁶¹ However, Malaysia has been a net importer of crude steel since 2005 with consumption rates continually outpacing production.⁶²

In the HRC market, imports within the Association of South East Asian Nations (ASEAN) increased by 63 per cent year on year in the first seven months of 2016. Malaysia was the main destination of these imports, receiving 54 per cent of the intra-ASEAN imports of HRC.⁶³ This is an indication that although demand for HRC exists, this demand is fulfilled by imports.

Exports

Noting the closure of Megasteel Sdn Bhd's Banting plant in September 2016, there is no suggestion that any HRC has been exported to other markets. No exports of HRC from Malaysia to Australia are evident in the ABF import database, nor in respect of the other evidence before the Commission.

Other Trade Remedies

Only Thailand has trade remedy measures for the goods exported from Malaysia. This was the result of a finding that measures should be continued in this country.

Korea

Capacity and Production

OECD figures have current Korean crude steel capacity at 85 million tonnes, with planned capacity to reach almost 88 million tonnes by 2017.⁶⁴ Korea is the world's 6th largest steel producer with 69 million tonnes in 2015, down from 71 million tonnes in 2014.⁶⁵

Demand

⁶¹ International Trade Administration (2017), [Steel Imports Report: Malaysia](#).

⁶² *ibid.*

⁶³ South East Asia Iron and Steel Institute, [Intra-ASEAN Steel Trade: January – July 2016](#).

⁶⁴ OECD (2016), [Capacity Developments in the World Steel Industry](#), page 12.

⁶⁵ Korea Iron & Steel Association, production [statistics](#).

OECD figures show that Korea's economic growth in recent years has been somewhat flat with only slight increases predicted into 2017. In years 2013 to 2014 the construction, automotive and shipbuilding sectors, which are the drivers of domestic demand for the goods in Korea, saw increases via public housing projects and increased shipbuilding.⁶⁶ More recent economic data in the construction and agriculture sectors indicate that domestic demand is beginning to slow.⁶⁷ However, the OECD has projected that economic growth in Korea is to increase by two to three per cent in 2016-2017, and three per cent into 2018.⁶⁸ Recent regulatory change has seen growth in residential investment.⁶⁹ These figures suggest that domestic demand in the sectors that are particular to the goods is unlikely to decrease in the near term.

Despite stable domestic demand Korean steel production has risen since 2012, reaching 51 million tonnes in 2016. During that period, consumption rates have fallen behind production reaching nine million tonnes in 2015.⁷⁰ This gap narrowed in 2016 yet still remains at 4.6 million tonnes, some 10 times the size of the Australian market for the goods.

Exports

Korea is the world's fourth largest steel exporter, having exported 7.9 million tonnes of crude steel, year to date, as at March 2017, which was a 6 per cent volume increase from exports at year to date 2016.⁷¹ Steel exports amounted to over 45.6 per cent of total production of crude steel in, year to date, as at March 2017.⁷²

Export volumes of the goods from Korea to Australia have dropped year-on-year since 2012, other than an increase from 2013 to 2014. Exports dropped almost 38 per cent from 2014 to 2015.

Other Trade Remedies

Currently 53 trade remedy related sanctions are in place against Korean steel producers in 12 countries. Of these, four relate to the goods imported by three countries (including the original measures the subject of this inquiry) and one of these relating to countervailing.⁷³

⁶⁶ [Presentation by Korea Iron & Steel Association](#) to OECD.

⁶⁷ [OECD Economic Outlook \(2016\)](#); see also CNBC [news article from 24 January 2017](#).

⁶⁸ [OECD Economic Outlook \(2016\)](#).

⁶⁹ *ibid.*

⁷⁰ International Trade Administration (Sept 2016), *Steel Exports Report: Korea*, available from the [archive](#).

⁷¹ International Trade Administration (June 2017), [Steel Exports Report: Korea](#).

⁷² *ibid.*

⁷³ *ibid.*

Taiwan

Production

In 2016, Taiwan's production of crude steel was 22.1 million tonnes, compared to 21.4 million tonnes in 2015.

Total production of hot-rolled products increased from 7.37 million tonnes in 2015 to 8.24 million tonnes in 2016 (an 11.8 per cent increase) whilst consumption increased from 3.73 million tonne to 4.43 million tonnes (an 18.8 per cent increase).

Demand

Taiwan has experienced flat economic growth since 2012.⁷⁴ Like China, Taiwan's economy is shifting towards consumption and services, with traditional sectors that drive demand for the goods declining. Total steel consumption was 18.3 million tonnes, a gap of 0.8 million tonnes, reflecting decreasing domestic demand.

Exports

Taiwan exports crude steel to more than 170 countries making it the world's 12th largest exporter of crude steel. Taiwan became a net exporter of steel in 2006, with a surplus in 2016 of 4.3 million tonnes. The total amount of steel exports is expected to grow marginally whilst imports are expected to stand still.⁷⁵

Since 2012, Taiwan's exports have consistently remained above 50 per cent of its total production. Australia is one of the top 10 importers of steel from Taiwan with four per cent of total steel exports headed to Australia. Year on year export volumes of steel from Taiwan are up nine per cent however value is down six per cent representing a drop in prices.⁷⁶

Other Trade remedies

Currently 37 trade remedy related sanctions are in place against Taiwanese steel producers in over 11 countries.⁷⁷ Despite these measures being in place, Taiwan's percentage of exports have consistently remained above 50 per cent, which suggests that Taiwanese exporters rely heavily on foreign markets.

⁷⁴ [National Statistics, Republic of China \(Taiwan\)](#) data.

⁷⁵ International Trade Administration (May 2017), [Steel Exports Report: Taiwan](#).

⁷⁶ *ibid.*

⁷⁷ *ibid.*