

COMMERCIAL METALS CO
Form SC TO-T
December 09, 2011

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE TO

(Rule 14D-100) Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)

of the Securities Exchange Act of 1934

(Amendment No.)

COMMERCIAL METALS COMPANY

(Name of Subject Company (Issuer))

IEP Metals Sub LLC

Icahn Partners LP

Icahn Partners Master Fund LP

Icahn Partners Master Fund II L.P.

Icahn Partners Master Fund III L.P.

High River Limited Partnership

Hopper Investments LLC

Barberry Corp.

Icahn Onshore LP

Icahn Offshore LP

Icahn Capital L.P.

IPH GP LLC

Icahn Enterprises Holdings L.P.

Icahn Enterprises G.P. Inc.

Beckton Corp.

Carl C. Icahn
(Names of Filing Persons)*

Common Stock, Par Value \$0.01
(Title of Class of Securities)

201723103
(CUSIP Number of Class of Securities)

Keith L. Schaitkin, Esq.

General Counsel

Icahn Capital LP

767 Fifth Avenue, 47th Floor

New York, New York 10153

(212) 702-4380

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on behalf of Filing Persons)

CALCULATION OF FILING FEE

Transaction Valuation:
\$1,560,210,000*

Amount of Filing Fee:
\$ 178,800.07**

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- * Calculated solely for purposes of determining the filing fee. The transaction value was calculated as follows: 104,014,000 shares of common stock of the Issuer multiplied by \$15 per share. The number of shares used in the transaction value calculation is based on the 115,539,000 shares stated to be issued and outstanding according to the Issuer in its Definitive Proxy Statement filed with the Securities and Exchange Commission on December 6, 2011, less 11,525,000 shares beneficially owned, as of December 9, 2011, by the Offeror and its affiliates.
- ** The amount of the filing fee was calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory #3 for fiscal year 2012, issued September 29, 2011, by multiplying the transaction value by 0.0001146.
- .. Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount previously paid:
Form or registration no.:

Filing Party:
Date Filed:

- .. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer. Check the appropriate boxes below to designate any transactions to which the statement relates:

- third party tender offer subject to Rule 14d-1
- issuer tender offer subject to Rule 13e-4
- going-private transaction subject to Rule 13e-3
- amendment to Schedule 13D under Rule 13d-2

Check the following box if the filing is a final amendment reporting the results of the tender offer: ..

COMBINED SCHEDULE TO AND SCHEDULE 13D

* *Introductory Note:* IEP Metals Sub LLC and Icahn Enterprises Holdings L.P. are co-bidders for all purposes in the Offer. IEP Metals Sub LLC is a wholly-owned subsidiary of Icahn Enterprises Holdings L.P.

This Schedule TO (this Schedule TO) is related to the offer by IEP Metals Sub LLC, a Delaware limited liability company (IEP Metals Sub) and Icahn Enterprises Holdings L.P., a Delaware limited partnership (Icahn Enterprises Holdings , and together with IEP Metals Sub, the Offeror), to purchase for cash all of the issued and outstanding shares of common stock, par value \$0.01 per share (the Common Stock) of Commercial Metals Company, a Delaware corporation (Commercial Metals), including the associated rights issued pursuant to the Rights Agreement, dated as of July 30, 2011, between Commercial Metals and Broadridge Corporate Issuer Solutions, Inc., as Rights Agent, that are issued and outstanding (the Rights , and together with the Common Stock, the Shares) at a price of \$15.00 per Share, without interest and less any required withholding taxes, if any. Both IEP Metals Sub and Icahn Enterprises Holdings are co-bidders for all purposes in the Offer.

The Offer is subject to the terms and conditions set forth in the Offer to Purchase, dated December 9, 2011 (the Offer to Purchase). The Offer to Purchase, the related Letter of Transmittal (the Letter of Transmittal) and Notice of Guaranteed Delivery, copies of which are attached hereto as Exhibits (a)(1)(i), (a)(1)(ii) and (a)(1)(iii), respectively, constitute the Offer .

As permitted by General Instruction F to Schedule TO, the information set forth in the entire Offer to Purchase, the Letter of Transmittal and the Notice of Guaranteed Delivery, including all appendices, schedules, exhibits and annexes thereto, is hereby expressly incorporated by reference in response to Items 1 through 11 of this Schedule TO and is supplemented by the information specifically provided herein.

As permitted by General Instruction G to Schedule TO, this Schedule TO is also an amendment to the joint statement on Schedule 13D filed on July 28, 2011, as amended, by Icahn Enterprises Holdings, Icahn Partners LP, a limited partnership governed by the laws of Delaware, Icahn Partners Master Fund LP, a limited partnership governed by the laws of the Cayman Islands, Icahn Partners Master Fund II LP, a limited partnership governed by the laws of the Cayman Islands, Icahn Partners Master Fund III LP, a limited partnership governed by the laws of the Cayman Islands, High River Limited Partnership, a limited partnership governed by the laws of Delaware, Hopper Investments LLC, a limited liability company governed by the laws of Delaware, Barberry Corp., a corporation governed by the laws of Delaware, Icahn Onshore LP, a limited partnership governed by the laws of Delaware, Icahn Offshore LP, a limited partnership governed by the laws of Delaware, Icahn Capital LP, a limited partnership governed by the laws of Delaware, IPH GP LLC, a limited liability company governed by the laws of Delaware, Icahn Enterprises Holdings L.P., a limited partnership governed by the laws of Delaware, Icahn Enterprises G.P. Inc., a corporation governed by the laws of Delaware, Beckton Corp., a corporation governed by the laws of Delaware, and Carl C. Icahn (collectively, the Icahn Entities).

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

High River Limited Partnership

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

SHARES 2,304,999
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 2,304,999
10. SHARED DISPOSITIVE POWER

WITH:

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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2,304,999

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.99%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Hopper Investments LLC

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

0

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

2,304,999

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

0

10. SHARED DISPOSITIVE POWER

WITH:

2,304,999

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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2,304,999

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.99%

14 TYPE OF REPORTING PERSON

OO

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Barberry Corp.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

0

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

2,304,999

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

0

10. SHARED DISPOSITIVE POWER

WITH:

2,304,999

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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2,304,999

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.99%

14 TYPE OF REPORTING PERSON

CO

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Partners Master Fund LP

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7. SOLE VOTING POWER

NUMBER OF

SHARES 3,808,353
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 3,808,353
10. SHARED DISPOSITIVE POWER

WITH:

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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3,808,353

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

3.30%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Partners Master Fund II LP

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7. SOLE VOTING POWER

NUMBER OF

SHARES 1,310,448
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 1,310,448
10. SHARED DISPOSITIVE POWER

WITH:

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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1,310,448

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.13%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Partners Master Fund III LP

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

7. SOLE VOTING POWER

NUMBER OF

SHARES 569,245
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 569,245
10. SHARED DISPOSITIVE POWER

WITH:

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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569,245

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

0.49%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Offshore LP

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

0

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

5,688,046

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

0

10. SHARED DISPOSITIVE POWER

WITH:

5,688,046

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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5,688,046

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

4.92%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Partners LP

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

SHARES 3,531,955
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 3,531,955
10. SHARED DISPOSITIVE POWER

WITH:

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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3,531,955

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

3.06%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Onshore LP

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

0

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

3,531,955

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

0

10. SHARED DISPOSITIVE POWER

WITH:

3,531,955

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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3,531,955

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

3.06%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Capital LP

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

0

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

9,220,001

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

0

10. SHARED DISPOSITIVE POWER

WITH:

9,220,001

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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9,220,001

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

7.98%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

IPH GP LLC

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

0

SHARES

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY

9,220,001

EACH

9. SOLE DISPOSITIVE POWER

REPORTING

PERSON

0

10. SHARED DISPOSITIVE POWER

WITH:

9,220,001

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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9,220,001

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

7.98%

14 TYPE OF REPORTING PERSON

OO

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Enterprises Holdings L.P.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

SHARES 0

8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 9,220,001

EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 0

10. SHARED DISPOSITIVE POWER

WITH:

9,220,001

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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9,220,001

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

7.98%

14 TYPE OF REPORTING PERSON

PN

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Icahn Enterprises G.P. Inc.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

SHARES 0
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 9,220,001
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 0
10. SHARED DISPOSITIVE POWER

WITH:

9,220,001

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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9,220,001

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

7.98%

14 TYPE OF REPORTING PERSON

CO

CUSIP No. 201723103

1. NAME OF REPORTING PERSON

Beckton Corp.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

OO

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7. SOLE VOTING POWER

NUMBER OF

SHARES 0
8. SHARED VOTING POWER

BENEFICIALLY

OWNED BY 9,220,001
EACH 9. SOLE DISPOSITIVE POWER

REPORTING

PERSON 0
10. SHARED DISPOSITIVE POWER

WITH:

9,220,001

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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9,220,001

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES "

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

7.98%

14 TYPE OF REPORTING PERSON

CO

CUSIP No. 201723103

1 NAME OF REPORTING PERSON

Carl C. Icahn

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

United States of America

7 SOLE VOTING POWER

NUMBER OF

SHARES 0
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 11,525,000
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 0
10 SHARED DISPOSITIVE POWER

WITH:

11 11,525,000

AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

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11,525,000

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

9.97%

14 TYPE OF REPORTING PERSON

IN

Item 1. Summary Term Sheet.
Regulation M-A Item 1001

The information set forth in the Offer to Purchase under the section *Summary Term Sheet* is incorporated herein by reference.

Item 2. Subject Company Information.
Regulation M-A Item 1002

(a) *Name and Address.* The name, address, and telephone number of the subject company's principal executive offices are as follows:

Commercial Metals Company

6565 North MacArthur Boulevard

Irving, Texas 75039

Tel.: (214) 689-4300

(b) *Securities.* This Schedule TO relates to the Offer by IEP Metals Sub LLC and Icahn Enterprises Holdings L.P. to purchase for cash all outstanding Shares. According to Commercial Metals' Definitive Proxy Statement, filed with the SEC on December 6, 2011, Commercial Metals expects to have approximately 115,539,000 shares of common stock outstanding, as of December 9, 2011. The information set forth on the cover page and in the section *Introduction* of the Offer to Purchase is incorporated herein by reference.

(c) *Trading Market and Price.* The information set forth under the caption *The Tender Offer - Section 6 - Price Range of Shares* of the Offer to Purchase is incorporated herein by reference.

Item 3. Identity and Background of Filing Person.
Regulation M-A Item 1003

(a)-(c) *Name and Address; Business and Background of Entities; and Business and Background of Natural Persons.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

Summary Term Sheet

The Tender Offer - Section 8 - Certain Information Concerning the Offeror and Schedule I attached thereto.

Item 4. Terms of the Transaction.
Regulation M-A Item 1004

(a) *Material Terms.* The information set forth in the Offer to Purchase is incorporated herein by reference.

Item 5. Past Contacts, Transactions, Negotiations and Agreements.
Regulation M-A Item 1005

(a) *Transactions.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

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Summary Term Sheet

The Tender Offer Section 10 - Background of the Offer; Past Contacts or Negotiations with the Company

(b) *Significant Corporate Events*. The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

Summary Term Sheet

The Tender Offer Section 10 - Background of the Offer; Past Contacts or Negotiations with the Company

The Tender Offer Section 11 - Purpose of the Offer; Plans for the Company

Item 6. *Purposes of the Transaction and Plans or Proposals.*
Regulation M-A Item 1006

(a) *Purposes.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

The Tender Offer Section 11 - Purpose of the Offer; Plans for the Company

(c) (1)-(7) *Plans.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

Summary Term Sheet

The Tender Offer Section 9 - Source and Amount of Funds

The Tender Offer Section 10 - Background of the Offer; Past Contacts or Negotiations with the Company

The Tender Offer Section 11 - Purpose of the Offer; Plans for the Company

The Tender Offer Section 12 - Certain Effects of the Offer

The Tender Offer Section 13 - Dividends and Distributions

Item 7. *Source and Amount of Funds or Other Consideration.*
Regulation M-A Item 1007

(a) *Source of Funds.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

Summary Term Sheet

The Tender Offer Section 9 - Source and Amount of Funds

The Tender Offer Section 10 - Background of the Offer; Past Contacts or Negotiations with the Company

(b) *Conditions.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

Summary Term Sheet

The Tender Offer Section 9 - Source and Amount of Funds

The Tender Offer Section 10 - Background of the Offer; Past Contacts or Negotiations with the Company

The Tender Offer Section 11 - Purpose of the Offer; Plans for the Company

The Tender Offer Section 14 - Conditions of the Offer

(d) *Borrowed Funds.*

None.

Item 8. *Interest in Securities of the Subject Company.*

Regulation M-A Item 1008

(a) *Securities Ownership.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

The Tender Offer Section 8 -Certain Information Concerning the Offeror and Schedule I attached thereto.

The Tender Offer Section 11 - Purpose of the Offer; Plans for the Company

(b) *Securities Transactions.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

The Tender Offer Section 8 - Certain Information Concerning the Offeror and Schedule I attached thereto.

Item 9. *Persons/Assets, Retained, Employed, Compensated or Used.*

Regulation M-A Item 1009

(a) *Solicitations or Recommendations.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

Summary Term Sheet

The Tender Offer Section 2 - Procedure for Accepting the Offer and Tendering Shares

The Tender Offer Section 10 - Background of the Offer; Past Contacts or Negotiations with the Company

The Tender Offer Section 16 - Fees and Expenses

Item 10. Financial Statements.
Regulation M-A Item 1010

(a) *Financial Information.* Not Applicable.

(b) *Pro Forma Information.* Not Applicable.

Item 11. Additional Information.
Regulation M-A Item 1011

(a) *Agreements, Regulatory Requirements and Legal Proceedings.* The information set forth in the Offer to Purchase under the following captions is incorporated herein by reference:

Summary Term Sheet

The Tender Offer Section 10 - Background of the Offer; Past Contacts or Negotiations with the Company

The Tender Offer Section 11 - Purpose of the Offer; Plans for the Company

The Tender Offer Section 12 - Certain Effects of the Offer

The Tender Offer Section 15 - Certain Legal Matters

(b) *Other Material Information.* Not applicable

Item 13. Information Required by Schedule 13E-3
Not applicable.

SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

ICAHN PARTNERS LP

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

ICAHN PARTNERS MASTER FUND LP

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

ICAHN PARTNERS MASTER FUND II LP

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

ICAHN PARTNERS MASTER FUND III LP

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

HIGH RIVER LIMITED PARTNERSHIP

BY: Hopper Investments LLC, its general partner

BY: Barberry Corp., its sole member

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

HOPPER INVESTMENTS LLC

BY: Barberry Corp., its sole member

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

BARBERRY CORP.

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

ICAHN ONSHORE LP

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

ICAHN OFFSHORE LP

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

ICAHN CAPITAL LP

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

IPH GP LLC

By: /s/ EDWARD MATTNER
Name: **Edward Mattner**
Title: **Authorized Signatory**

ICAHN ENTERPRISES HOLDINGS L.P.

BY: Icahn Enterprises G.P. Inc., its general partner

By: /s/ DOMINICK RAGONE
Name: **Dominick Ragone**
Title: **Chief Financial Officer**

IEP METALS SUB LLC

BY: Icahn Enterprises Holdings L.P., its sole member

BY: Icahn Enterprises G.P. Inc., its general partner

By: /s/ DOMINICK RAGONE
Name: **Dominick Ragone**
Title: **Chief Financial Officer**

Name: /s/ CARL C. ICAHN
Carl C. Icahn

Date: December 9, 2011

EXHIBIT INDEX

| Exhibit | |
|----------------|--|
| No. | Description |
| (a)(1)(i) | Offer to Purchase, dated December 9, 2011 |
| (a)(1)(ii) | Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number) |
| (a)(1)(iii) | Notice of Guaranteed Delivery |
| (a)(1)(iv) | Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees |
| (a)(1)(v) | Letter to Clients |
| (a)(5)(i) | Summary Advertisement as published in the New York Times, by the Offeror, on December 9, 2011 |
| (a)(5)(ii) | Press Release of the Offeror, dated December 6, 2011 (incorporated by reference to Exhibit 1 to the Schedule TO-C filed by the Offeror with the Securities and Exchange Commission on December 6, 2011)* |
| (b) | None. |
| (d) | None. |
| (g) | None. |
| (h) | None. |

* Previously Filed