



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

R E P O R T

CUSTOMS ACT 1901 - PART XVB

INTERNATIONAL TRADE REMEDIES BRANCH

**CONSIDERATION OF AN APPLICATION FOR A DUMPING
DUTY NOTICE AND A COUNTERVAILING DUTY NOTICE**

**HOT ROLLED PLATE STEEL
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA,
REPUBLIC OF INDONESIA, JAPAN, THE REPUBLIC OF
KOREA AND TAIWAN**

REPORT NO. 198

February 2013

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2 ABBREVIATIONS & SHORTENED FORMS

Abbreviation / short form	Full reference
ABS	Australian Bureau of Statistics
ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901</i>
AD Agreement	World Trade Organisation Agreement on Anti-Dumping
the applicant	BlueScope Steel Limited
AS	Australian Standard
BlueScope	BlueScope Steel Limited
BMT	base metal thickness
China	The People's Republic of China
CEO	Chief Executive Officer
CON 198	International Trade Remedies Branch Consideration Report 198
CTMS	Cost to make and sell
Customs and Border Protection	Australian Customs and Border Protection Service
the Division	Division 2 of Part XVB of the Customs Act 1901
FOB	free-on-board
GOC	Government of China
the goods	the goods the subject of the application (hot rolled plate steel)
GUC	Goods under consideration (goods the subject of the application).
HRC	hot rolled coil
Indonesia	The Republic of Indonesia
ISSB	International Steel Statistics Bureau
ITRB	International Trade Remedies Branch
Korea	The Republic of Korea
The Minister	the Minister for Home Affairs
NIP	non-injurious price
SEF	statement of essential facts
SG&A	Selling, general and administrative
TMRO	Trade Measures Review Officer
USP	unsuppressed selling price
WTO	World Trade Organisation

3 SUMMARY AND RECOMMENDATIONS

3.1 Background

This Consideration Report (CON 198) provides the results of the Australian Customs and Border Protection Service's (Customs and Border Protection's) consideration of an application lodged by BlueScope Steel Limited (BlueScope) for the publication of:

- a dumping duty notice on hot rolled plate steel (plate steel) exported to Australia from the People's Republic of China (China), the Republic of Indonesia (Indonesia), Japan, the Republic of Korea (Korea) and Taiwan; and
- a countervailing duty notice on plate steel exported to Australia from China.

3.2 Recommendations

Customs and Border Protection recommends that the Chief Executive Officer of Customs and Border Protection (CEO)¹ decide not to reject the application.

If the CEO accepts this recommendation, to give effect to that decision, the CEO must publish the notice at **Appendix 1** indicating that Customs and Border Protection will inquire into whether the grounds exist to publish a dumping duty notice and/or a countervailing duty notice in respect of plate steel.

3.3 Application of law to facts

Division 2 of Part XVB (the Division) of the *Customs Act 1901* (the Act)² sets out procedures for considering an application for a dumping duty notice and a countervailing duty notice.

3.4 The role of the International Trade Remedies Branch

The International Trade Remedies Branch (ITRB) is responsible for preparing a report for the CEO examining an application for a dumping duty notice and/or a countervailing duty notice.

In this report, the following matters are to be considered in relation to the application:

- whether the application complies with subsection³ (s.) 269TB(4) of the Act;
- whether there is, or is likely to be established, an Australian industry in respect of like goods; and
- whether there appear to be reasonable grounds for the publication of a dumping duty notice and/or a countervailing duty notice in respect of the goods the subject of the application.

¹ References to the CEO in this report also refer to the Delegate of the CEO.

² All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

³ The terms "section", "s." and "subsection" are used interchangeably in this report.

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3.5 The role of the CEO of Customs and Border Protection

The Division empowers the CEO, after having regard to the ITRB report and to any other information that the CEO considers relevant, to reject or not reject an application for the publication of a dumping duty notice and/or a countervailing duty notice.

If the CEO decides not to reject the application, the CEO must give public notice of the decision providing details of the investigations.

3.6 Findings and conclusions

Customs and Border Protection has examined the application and is satisfied that:

- the application complies with the requirements of s.269TB(4) of the Act (as set out in Section 5 of this report);
- there is an Australian industry in respect of like goods (as set out in Section 6 of this report);
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application (as set out in Sections 7, 9 and 10 of this report); and
- there appear to be reasonable grounds for the publication of a countervailing duty notice in respect of the goods the subject of the application (as set out in Sections 8, 9 and 10 of this report).

4 BACKGROUND

4.1 Application

On 21 December 2012, an application was lodged on behalf of BlueScope requesting that the Minister for Home Affairs (the Minister) publish:

- a dumping duty notice on plate steel exported to Australia from China, Indonesia, Japan, Korea and Taiwan; and
- a countervailing duty notice on plate steel exported to Australia from China.

BlueScope alleges that the Australian industry has suffered material injury caused by plate steel exported to Australia from the nominated countries at dumped and, in the case of China, subsidised prices.

BlueScope provided further information and data in support of its application, the last of which was received on 29 January 2013. As a result, Customs and Border Protection restarted the 20 day period for considering the application.

BlueScope claimed that material injury in respect of plate steel commenced to impact profit and profitability in 2009/10. The application identified the injurious effects as:

- loss of sales volume;
- reduced market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced attractiveness for reinvestment in the plate steel business; and
- reduced employment.

4.2 The goods the subject of the applications

4.2.1 Description

Flat rolled products of:

- iron;
- non-alloy steel; or
- non-heat treated alloy steel of a kind commonly referred to as Quench and Tempered (Q&T) Green Feed

of a width greater than 600 millimetres (mm), with a thickness equal to or greater than 4.75mm, not further worked than hot rolled, not in coils, with or without patterns in relief.

Goods excluded from this application are:

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- 250 megapascal (MPa) yield strength grades of plate steel with a thickness greater than 150mm;
- 350 megapascal (MPa) yield strength grades of plate steel with a thickness greater than 100mm;
- Q & T Green Feed grades of plate steel with a thickness greater than 105mm;
- heat treated Q & T grades of plate steel.

4.2.2 Product information

The goods under consideration (GUC) are generically called hot rolled plate steel, plate steel, coil plate steel or Q&T green feed (used interchangeably with GUC in this application).

Trade or further generic names often used to describe these goods include:

- “XLERPLATE” steel;
- “XLERPLATE LITE” steel;
- Plate;
- Pattern Plate;
- Coil Plate;
- Checker Plate;
- Floor Plate;
- Q&T Green Feed.

BlueScope understands that the standard dimensions of imported plate product ranges within 1500mm to 3200mm in width, 5mm to 250mm in thickness and 6 to 12 metres in length.

Imported non-alloy steel plate product is most commonly offered in nominal yield strengths of 250 MPa and 350 MPa, depending on application and end use.

Imported alloy steel plate product grades that are made by BlueScope and also imported into Australia are generically called Q & T Green Feed. Q & T Green Feed is supplied only in non heat-treated condition. Q & T Green Feed steel grades possess a higher hardenability, which (on heat treating) results in higher strength and hardness properties over 250 MPa and 350 MPa non-alloy steel grades. To achieve this higher hardenability, additional specific alloys are added during the steelmaking process (i.e. thereby incurring a higher cost of production).

Q & T Green Feed grades of steel have chemical compositions that typically fall within the following range:

- Carbon Max – 0.40%
- Manganese Max – 1.6%
- Silicon Max – 0.65%
- Sulphur Max – 0.035%
- Phosphorous Max – 0.035%
- Nickel Max – 2.5%
- Chrome Max – 2.0%

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- Molybdenum Max – 1.0%
- Vanadium Max – 0.15%
- Boron Max – 0.006%.

The percentage of individual alloying elements will vary in accordance with each manufacturer's grade specifications and not all elements may be utilised in all Q & T Green Feed steel grades.

Q&T Green Feed products are normally "negotiated mill to customer" chemistry grades of plate steel.

Q & T Green Feed is only supplied in the non heat-treated condition (ie the heat treatment process to achieve the higher hardenability is undertaken by BlueScope's customer(s)).

4.2.3 Product standards

There are a number of relevant international standards for plate steel products that define specific grade designations, including the recommended or guaranteed properties of each of these product grades.

Q&T green feed products are often 'negotiated mill to customer' chemistry grades of plate steel.

These relevant standards are noted in the tables below.

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Australian and International Standards:- Structural Grades			
AS/NZS 3678	ASTM	JIS	China
Grade	Grade	Grade	Grade
250	A36	G3101-SS400	GB/T 700 - Q275
250L15			
250L20			
250Y20			
250L40			
250Y40			
300			
300L15			
300L20			
300Y20			
300L40			
300Y40			
350	A572 - 345 (50)	G3101-SS490	GB/T 1591 - Q345
350L15			
350L20			
350Y20			
350L40			
350Y40			
400	A572 - 415 (60)		GB/T 1591 - Q390
400L15			
400L20			
400Y20			
400L40			
400Y40			
450	A572 - 450 (65)		GB/T 1591 - Q420
450L15			GB/T 1591 - Q460
450L20			
450Y20			
450L40			
450Y40			

Australian and International Standards:- Pressure Vessel and Boiler Grades	
AS 1548	ASTM
Grade	Grade
PT 430	A516 - 415 (60)
PT 460	A516 - 450 (65)
PT 490	A516 - 485 (70)
PT 490	A516 - 485 (70)
PT 490 N	A516 - 485 (70) N

4.2.4 Tariff classifications

The application states that plate steel is classified to the following tariff subheadings:

- 7208.40.00 statistical code 39;
- 7208.51.00 statistical code 40;
- 7208.52.00 statistical code 41;
- 7225.40.00 statistical codes 22 and 24.

For tariff subheadings:

- 7208.40.00 statistical code 39;

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- 7208.51.00 statistical code 40; and
- 7208.52.00 statistical code 41

the general rate of duty is currently 5 per cent for goods imported from Japan and free for imports from China, Indonesia, Korea and Taiwan.

For goods imported under the tariff subheading 7225.40.00 statistical codes 22 and 24, the general rate of duty for goods imported from Japan, Korea and Taiwan is 5 per cent and 4 per cent for imports from China and Indonesia.

4.2.5 Tariff concession orders

There is one tariff concession order (TCO) applicable to tariff subheading 7208.51.00 statistical code 40:

TC 9702134 PLATE OR SHEET, steel, having EITHER of the following:

- (a) a thickness exceeding 104 mm;
 - (b) a width exceeding 3.3 m,
- but NOT including the following grades or specifications:
- (1) Grade 250 (including modified analysis) having:
 - (i) a thickness of 110 mm to 150 mm; and
 - (ii) a width of 1 600 mm to 2 400 mm;
 - (2) Grade XK1016 (including modified analysis) having:
 - (i) a thickness of 160 mm to 250 mm; and
 - (ii) a width of 1 600 mm to 2 400 mm

For the purposes of this order, all measurements have a tolerance of + OR - 5%

There is one TCO applicable to tariff subheading 7208.52.00 stat code 41:

TC 0512722 STEEL SHEETS, grade Tu15D3, having ALL of the following:

- (a) thickness NOT less than 7.5 mm and NOT greater than 8.5 mm;
- (b) width NOT less than 1 950 mm and NOT greater than 2 050 mm;
- (c) length NOT less than 5 750 mm and NOT greater than 5 850 mm⁴

There are several TCOs applicable to tariff subheading 7255.40.00:

TC 8800908 STEEL, to Specification AS 1239-1973, Types D2A, D3A, D4A or D5A

TC 1115409 STEEL PLATE, chromium-molybdenum alloy, conforming to European Standard 10028 10CrMo9-10 (EN 10028 10CrMo9-10), having ALL of the following:

- (a) length NOT less than 5 000 mm;
- (b) width NOT less than 1 200 mm;
- (c) thickness NOT less than 20 mm

TC 0807304 PLATE OR SHEET, nickel alloy steel, complying with American Society for Testing and Materials (ASTM) designation A553

⁴ Request document gives some dimensions usual for imported plate. Taken not to be a restriction. Length in this TCO is less than 6 metres.

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TC 8433380⁵ PLATES OR SHEET, steel, to Specification ASTM A387 Grades 2, 5, 11, 12, 21 or 22, but NOT including plates or sheet having a thickness of 3 mm or greater but NOT exceeding 105 mm, that have been annealed, normalised, quenched, stress relieved, tempered or subjected to ANY combination of these heat treatments

TC 9504043 PLATES AND SHEETS, high alloy steel, to specification DIN X210Cr12

TC 9504052 PLATES, SHEETS AND FLATS, high alloy steel, to specification DIN X45NiCrMo4

TC 9504075 SHEETS, PLATES AND FLATS, high alloy steel, to specification DIN90MnCrV8

TC 9504095 PLATES, SHEETS AND FLATS, high alloy steel, to specification DIN X155CrVMo12 1, BS BD2 or AISI D2

TC 9504104 PLATE, SHEET AND BAR, high alloy steel, specification DINX40CrMoV51, BS BH13 or AISI H13

4.3 Previous investigations

On 25 March 2004, the Minister for Justice and Customs published a dumping duty notice under s. 269TG(2) of the Act, imposing dumping measures on certain plate steel exported to Australia from China, Indonesia, Japan and Korea with the exclusion of one Korean exporter and two Indonesian exporters. The measures took effect on 2 April 2004.

Following a review by the Trade Measures Review Officer (TMRO), the Minister requested the Chief Executive Officer (CEO) of Customs and Border Protection to reinvestigate the findings in original report No. 76.

Following the reinvestigation, on 7 December 2004, the Minister for Justice and Customs accepted Customs and Border Protection's recommendations in report No. 87 to affirm the publication of dumping duty notices. Public notice was provided on 24 December 2004.

The measures expired on 2 April 2009.

4.4 Current measures

There are currently no anti-dumping or countervailing measures on plate steel exported to Australia.

4.5 Consideration of the application

Under subsection 269TC(1) of the Act, the CEO must examine the application and within 20 days of lodgement decide whether or not to reject the application. This decision must be made no later than 14 February 2013.

⁵ I have no idea if the comma after 105 mm means that the following part about annealed etc. applies to the plates and sheets eligible for the TCO or to those excluded. The original file might solve it.

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Subsection 269TC(1) of the Act specifies that the CEO shall reject an application if the CEO is not satisfied that:

- the application complies with subsection 269TB(4); or
- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appear to be reasonable grounds for the publication of a dumping duty notice and/or a countervailing duty notice in respect of the goods the subject of the application.

The above matters are examined in the following sections of this report.

5 COMPLIANCE WITH SUBSECTION 269TB(4)

5.1 Finding

Based on the information provided in the application, Customs and Border Protection is satisfied that the application complies with s.269TB(4) of the Act.

5.2 Legislative framework

Subsection 269TB(4) requires that the application must be in writing, be in an approved form, contain such information as the form requires, be signed in the manner indicated by the form and be supported by a sufficient part of the Australian industry.

5.3 Customs and Border Protection's assessment

5.3.1 Approved form

The application is in writing, in the approved form, contains such information as the form requires (as discussed in the following sections of this report) and is signed in the manner indicated in the form.

BlueScope submitted confidential and public record versions of the application along with numerous appendices and attachments. Customs and Border Protection considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information.

5.3.2 Supported by Australian industry

An application is taken to be supported by a sufficient part of the Australian industry if the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50% of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25% of the total production or manufacture of like goods in Australia.

The application states that BlueScope is the only Australian producer of plate steel. Based on the evidence provided, Customs and Border Protection considers the application is supported by a sufficient part of the Australian industry.

6 LIKE GOODS AND THE AUSTRALIAN MARKET

6.1 Finding

Based on the information provided in the application, Customs and Border Protection is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the data provided within the application is sufficient for the purpose of analysing the economic condition of the Australian industry for plate steel (Section 9 refers).

6.2 Legislative framework

Subsection 269TC(1) of the Act requires that the CEO must reject an application for a dumping duty notice and/or a countervailing duty notice if, inter alia, the CEO is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the CEO must first determine that 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”.

This issue is examined in Section 6.3 below.

The CEO must also be satisfied that the “like” goods are in fact produced in Australia. Subsections 269T(2) and 269T(3) of the Act specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. 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.

This issue is examined in Section 6.4 below.

6.3 Locally produced like goods

6.3.1 BlueScope’s claims

BlueScope stated that they manufacture flat rolled products matching the goods the subject of its application in that they are:

- of non-alloy steel or alloy steel;
- of thicknesses greater or equal to 4.75mm;
- of widths greater than 600mm; and
- not further worked other than hot rolled.

Plate steel products made by BlueScope are required to meet AS/NZS 3678 for structural and analysis plate steel grades, and AS/NZS 1548 for pressure vessel plate

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steel grades. Q&T Green Feed plate steel grades are most commonly a result of direct mill and customer negotiation around the chemistry specification to be supplied.

The steel chemistry, heat reduction and cooling process, are used to produce the required mechanical properties, as designated by Australian and International Standards.

BlueScope stated that it produces a wide variety of 250 and 350 type structural and pressure vessel plate steel grades with differing chemical and physical properties. The 250 and 350 grades of plate steel represent the majority of production and sales of plate steel manufactured by BlueScope.

BlueScope produces 250 and 350 in the following dimensions:

Yield Strength (MPa)	Width Range (mm)	Thickness Range (mm)	Length Range (m)
250	1250 – 3300	5 – 150	2.4 – 22
350	1250 - 3300	5 – 100	2.4 – 22

The application states that plate steel manufactured by BlueScope is marketed under the trade names “XLERPLATE” and “XLERPLATE LITE”.

BlueScope considers the locally produced goods are like products to the imported plate steel. BlueScope submitted that:

(a) Physical likeness

BlueScope’s locally produced plate steel and the imported goods are manufactured to the requirements of Australian and International Standards, or in the case of Q&T Green Feed plate steel grades, are customer negotiated chemistry specifications.

(b) Commercial likeness

Australian industry plate steel competes directly with imported plate steel in the Australian market.

(c) Functional likeness

Both the locally produced and imported plate steel have comparable or identical end-uses.

(d) Production likeness

Locally produced and imported plate steel are manufactured in a similar manner and via similar production processes.

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6.3.2 Customs and Border Protection's assessment

Customs and Border Protection has examined the evidence presented in the application and considers the Australian industry produces like goods to the goods the subject of the application, as defined in section 269T(1) of the Act.

Based on the information provided in the application, Customs and Border Protection considers that the applicant has demonstrated that:

- the primary physical characteristics of imported and locally produced goods are similar;
- the imported and locally produced goods are commercially alike as they are sold to common end users;
- the imported and locally produced goods are functionally alike as they have a similar range of end-uses; and
- the imported and locally produced goods are manufactured in a similar manner.

Therefore, at the consideration stage, Customs and Border Protection is satisfied that the Australian industry produces like goods to the goods the subject of the application.

6.3.3 Manufacture in Australia

Subsections 269T(2) and 269T(3) of the Act specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. 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.

6.3.4 Manufacturing process

Plate steel product is produced from slab steel in either of two ways:

1. via a Plate Mill (XLERPLATE®) or
2. via a Hot Strip Mill and cut to length line – (XLERPLATE® LITE)

The input steel product starts as a slab of steel for both methods of manufacture.

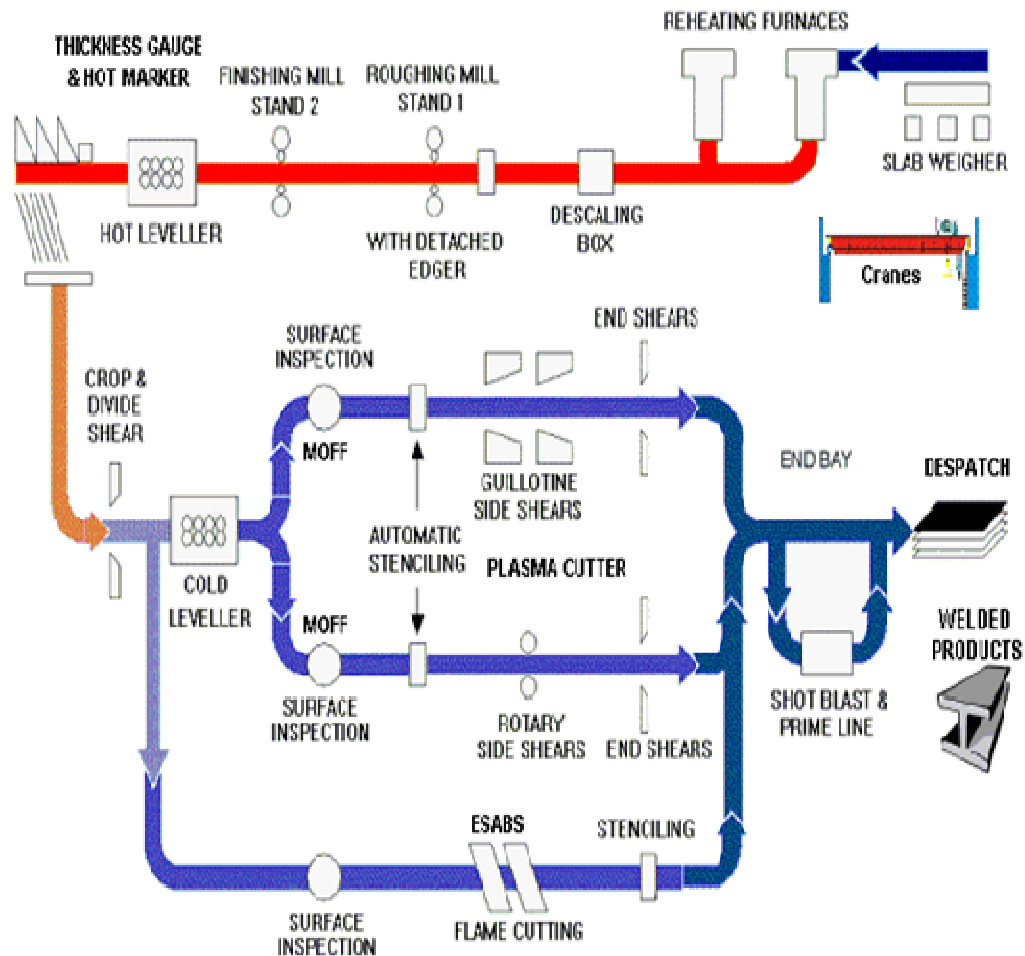
1. XLERPLATE®

Slab is heated in a furnace to around 1200 degrees celsius then reduced in thickness from 230mm to the required thickness by passing through a series of rollers at great pressure, and then passing through a hot leveller to achieve the required flatness. After cooling, this 'pattern' plate is transferred to the processing area where the 'pattern' is then cut to the required XLERPLATE® size. (size range is 5mm – 150mm thick, up to 3300mm wide and up to 22m long)

2. XLERPLATE® LITE

Slab is heated in a furnace to around 1200 degrees celsius then reduced in thickness from 230mm to the required thickness by passing through a series of rollers at great pressure, is then control cooled, and wound up as a coil of steel, now known as hot rolled coil ("HRC"). The HRC is then sheared to length and leveled flat at a secondary processing facility to make XLERPLATE® LITE product. (size range is 1.5mm – 12.7mm thick, up to 1550mm wide and 12m long)

Diagrammatic representation of Slab conversion to XLERPLATE® product



BlueScope manufactures steel plate in Australia from liquid steel, via flat steel production. The steel production process is a capital intensive one that converts raw material iron ore and coal into liquid steel, followed by casting into slab steel that is then converted into steel plate.

BlueScope is a fully-integrated flat steel product manufacturer with large capital intensive manufacturing operations at Port Kembla in NSW.

BlueScope submits that it undertakes more than one substantial process of manufacture in the production of the GUC.

BlueScope does not use imported steel in the manufacture of the GUC.

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6.3.5 Customs and Border Protection's assessment

Based on the description provided by BlueScope of its manufacturing processes for plate steel, Customs and Border Protection is satisfied that there is at least one substantial process of manufacture performed in Australia and, therefore, that the goods may be taken to have been produced in Australia.

6.4 Australian market

6.4.1 Background

BlueScope submitted that the primary end uses for plate steel are as follows:

Primary end use market	Applications
Mining, Oil & Gas	Tanks for oil and gas storage (incl. LNG), pipe racks, ore/coal shuttle cars, other materials handling including conveyor system supports, stacker reclaimers, coal loaders plus underground mining equipment & transport etc
Engineering Construction	Bridge beams, tubular piles for bridges, ports, rail etc, culverts, heavy structural members for large plant & equipment (e.g. power stations, desalination plants etc) tanks for water storage, wind towers
Transport & Equipment and general manufacturing	Truck trailers & bodies incl. mining dump trucks, ships & other marine (except for Oil & Gas)incl. mining trucks, earth moving equipment, sundry manufacturing incl. underground fuel tanks.
General Construction	Structural sections for commercial and industrial buildings, sundry cleats, base plates and plates for steel stick construction etc

6.4.2 Market segmentation and demand variability

The Australian market for plate steel products is dominated by three large segments. These are:

- mining, oil and gas (that is the construction of new plant and the maintenance of that plant) including bulk commodities materials handling;
- infrastructure including ports, wharves, bridges, wind towers, water storage; and
- transport & equipment manufacture including marine, road transport, earth moving, general manufacture.

Key sources of demand in the Australian market for the GUC include:

- mining oil and gas plant construction and operation plus the movement and storage of bulk commodities. Driven by fixed asset investment and operations in the mining commodities markets;

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- infrastructure - fixed asset investment or maintenance of existing infrastructure. Can be driven by need for assets to support investment in mining, oil and gas, population growth, expansion of trade (port facilities); and
- transport and equipment & general manufacturing- fixed asset investment and or repairs in road and rail haulage, agricultural equipment, earth moving equipment including wear surfaces. Demand for earth moving equipment can come from general construction, mining and infrastructure investment.

BlueScope stated that there are a variety of factors that influence demand variability for plate steel products within the Australian market, including:

- availability of capital for infrastructure spending – government and private;
- global and domestic business and consumer confidence in economic conditions (GDP, unemployment, inflation, interest rates);
- demand for Australian minerals and gas;
- trend to off-shore fabrication of large mining/oil & gas project modules to off-shore, low cost labour countries;
- international manufacturers do not always manufacture to the same standards as Australian manufacturers; this is commonly not understood until installation;
- major government spending on infrastructure such as roads and ports;
- incentives to develop renewable energy sources (wind power generation – 150 metric tonnes (MT) of steel in each tower);
- pressure on Australian manufacturing to compete with imported finished products;
- some variation in part due to distribution customers reducing off-take toward the end of the year due to reduced fabrication/manufacturing activity and end of fiscal year stock management.

6.4.3 Marketing and distribution

BlueScope sells over 70 per cent of its plate steel via a network of distribution companies via distributor/resellers. These distribution companies offer plate processing which includes the cutting, drilling, shaping of steel for customers who will incorporate these “components” into a finished article. Distributors hold stock, provide credit terms and can combine deliveries with other steel products e.g. pipe & tube and structural “I” beams and “H” columns.

BlueScope sells the balance of approximately 30% directly to larger end-users or “converters”. These larger end-users will mostly procure directly for large projects or they are manufacturers with regular off-take such as manufacturers that make proprietary products e.g. underground mining equipment.

The “converters” are generally large fabricators that will fabricate structures or items to a design e.g. a specific pressure vessel or a particular stacker reclaimer. As well as this, there are fabricators/maintenance companies that are drawing down steel from distributors for regular repairs & maintenance.

Both BlueScope and importers of the plate steel compete in all States and Territories in Australia and across each segment via the same distribution channels in order to

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sell product directly to the larger “converters” or manufacturing companies in Australia, and to distributors/resellers that on-sell the product into the market.

6.4.4 Alternative products

BlueScope stated that generally plate steel is not substitutable to any significant degree. Aluminium in some instances is substitutable but due to a quite different weight/cost proposition, generally these two products do not compete.

6.4.5 Market size

6.5.5.1 BlueScope’s claims

BlueScope stated that Australian Bureau of Statistics (ABS) import data for plate steel were the subject of “No Country Declared” suppression orders. Therefore BlueScope obtained export data (for all countries including those subject to the application) for 2007-08 to 2011-12 (years ending September), from the International Steel Statistics Bureau (ISSB), a European agency that specialises in collecting, analysing and publishing import and export trade data⁶. BlueScope noted that ISSB data for 2011-12 was incomplete as it did not include imports for the month of September 2012.

BlueScope estimated the size of the Australian market for plate steel using ISSB data and its own sales data.

6.5.5.2 Customs and Border Protection’s assessment

Customs and Border Protection compared the estimated import volumes in the application to the data in Customs and Border Protection’s import data base. Customs and Border Protection’s import data showed that total imports of plate steel under the relevant classifications were generally higher than estimated by BlueScope.

Customs and Border Protection considers that in the absence of detailed import information, the data in Customs and Border Protection’s import data base provides a reasonable estimate of import volumes.

The following graph depicts Customs and Border Protection’s estimate of the Australian market size for plate steel using data from its import database and BlueScope’s sales data. Customs and Border Protection estimates that in 2011-12 (ending September) the size of the Australian market for plate steel was approximately 510,000 MT.

⁶ ISSB is a European company involved in the publication of reports covering UK, European and Global trade in steel and raw materials, page 39 refers.

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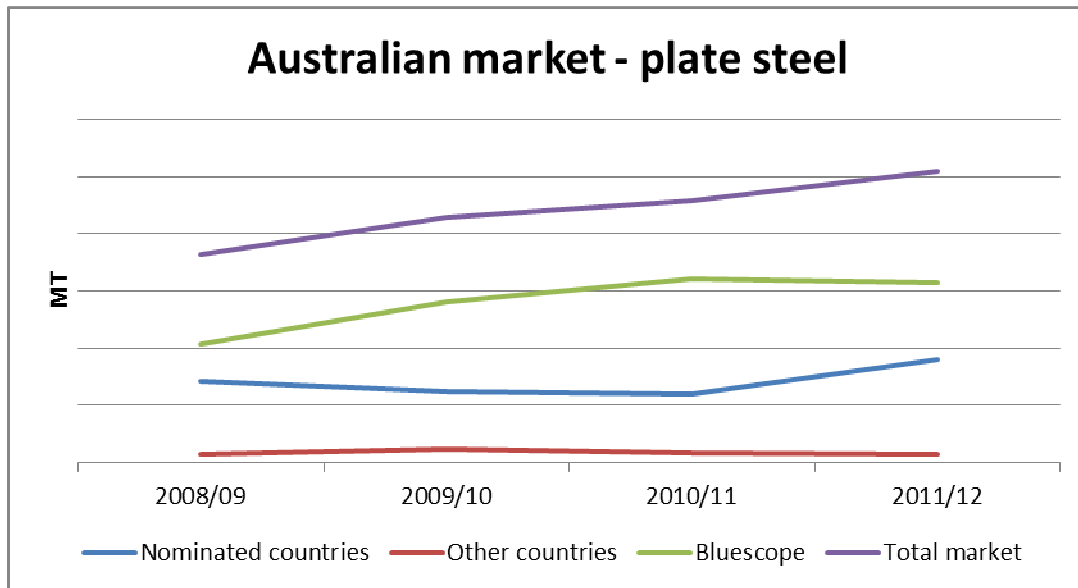


Figure 3: Australian market for plate steel - 2008-09 to 2011-12 (ending September)

The graph above shows that the total Australian market size for plate steel has risen since 2008/09.

Customs and Border Protection's estimate of the Australian market for plate steel is at **Confidential Appendix 2**.

6.5 Australian industry information

6.5.1 General accounting / administration information

BlueScope is a publicly listed company on the Australian stock exchange, limited by shares. BlueScope has a number of subsidiaries and joint ventures both in Australia and internationally. Several of these subsidiaries and joint ventures (such as BlueScope Distribution Pty Ltd) are directly involved in either the manufacture or supply of plate steel.

BlueScope has six internal corporate units with distinct functions which operate in Australia and internationally. The application nominates the Coated & Industrial Products Australia Group as relevant to the goods the subject to the application.

BlueScope's financial accounting period is from 1 July to 30 June. BlueScope's audited financial statements and annual report for 2011-12 were provided. BlueScope provided its chart of accounts, internal management accounting reports (for two months in 2011-12) and general accounting and administration information.

6.5.2 Australian industry's sales

BlueScope provided information in the application, including a summary of domestic and export sales volumes, revenues and rebates as required in Confidential Appendices A2, A3, A4, A5 and A6. Appendix A1 was also provided to substantiate production volumes and capacity for BlueScope for the period 1 July 2011 to 30 June 2012.

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Customs and Border Protection examined the detail in, and link between, relevant appendices and identified some relatively minor discrepancies.

Customs and Border Protection therefore considers that BlueScope's appendices are reliable for preliminarily assessing the economic condition of the industry in respect of plate steel.

6.5.3 Cost information

BlueScope completed a Confidential Appendix A6 cost to make and sell (CTMS) spreadsheet for domestic (A6.1) and export sales (A6.2). The information provided in these appendices included production and sales volumes, manufacturing costs, selling (including distribution), general and administrative (SG&A) expenses for the period 2007-08 to 2011-12.

Customs and Border Protection examined the information provided and the link between other appendices and considers the information reliable for the purposes of preliminarily assessing the economic condition of the industry in respect of plate steel.

6.5.4 Other economic factors

BlueScope completed Confidential Appendix A7 showing movements in assets, capital investment, research and development expenses, return on investment, capacity, capacity utilisation, employment, productivity, stocks, cash flow measures and wages.

6.5.5 Customs and Border Protection's assessment – Australian industry

Based on the information in the application, Customs and Border Protection is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the information contained in the application is sufficient for the purposes of a preliminary analysis of the economic condition of the industry in respect of plate steel from 2007-08 to 2011-12.

7 REASONABLE GROUNDS – DUMPING

7.1 Findings

Having regard to the matters contained in the application and to other information considered relevant, there appear to be reasonable grounds to support the claims that:

- plate steel has been exported to Australia from China, Indonesia, Japan, Korea and Taiwan at dumped prices;
- the individual total volume of plate steel that appears to have been dumped from China, Indonesia, Japan, Korea and Taiwan is each greater than 3% of the total Australian import volume of the goods, and therefore is not negligible.
- the estimated dumping margins for each of the nominated countries is greater than 2 per cent and are therefore not negligible.

7.2 Legislative framework

Article 5.2 of the World Trade Organisation (WTO) Anti-Dumping Agreement (AD Agreement) states that an application shall include evidence of dumping. It states that simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet this requirement, but such information must be reasonably available to the applicant.

Subsection 269TC(1) of the Act requires that the CEO must reject an application for a dumping duty notice if, inter alia, the CEO is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG of the Act, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods. This issue is considered in the following sections.

7.3 Export prices

7.3.1 BlueScope's claims

BlueScope stated that ABS import data by country for the goods is not available due to the non-disclosure of source country information. For non-alloy steel grades exported from Indonesia, Korea and Taiwan, BlueScope used ISSB data to estimate export prices. For China and Japan, BlueScope estimated deductive export prices for non-alloy grades using its knowledge of offers of plate steel from each country with deductions for amounts to arrive at an FOB value.

BlueScope believes that, in addition to non-alloy grades of plate steel, non heat-treated alloy grades are exported to Australia from China and Korea. BlueScope used ABS import data (which it appears is available by country for this tariff classification) in combination with the non-alloy ISSB data for Korea and deductive export price information for China to calculate weighted average export prices for the two countries.

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Quarterly export prices for plate steel estimated by BlueScope are summarised in the following table.

Country	Dec quarter 2011 (AUD)	Mar quarter 2012 (AUD)	Jun quarter 2012 (AUD)	Sep quarter 2012 (AUD)
China	\$932	\$917	\$722	\$863
Indonesia	\$795	\$713	\$726	N/A
Japan	\$879	\$861	\$861	\$843
Korea	\$849	\$767	\$764	\$759
Taiwan	\$760	\$724	\$710	\$714

7.3.2 Customs and Border Protection's assessment

Customs and Border Protection compared the quarterly export data provided by BlueScope with data contained in Customs and Border Protection's import database. Customs and Border Protection found that the volumes in its import database were generally marginally higher than those estimated by BlueScope, and significantly higher in the case of China.

Customs and Border Protection considers that, based on the information submitted in the application, the amounts used by BlueScope to estimate FOB export prices for plate steel exported from the nominated countries to Australia appear to be reasonable. The selling prices in Australia used as the starting point for deductive export prices for Japan and China are reasonably supported. The deductions used to calculate an FOB price appear reasonable when compared with verified information from other steel product investigations.

Furthermore, from 1 October 2011 to 30 September 2012, import volumes from each of the relevant countries exceeded 3% of the total Australian import volume.

A comparison of BlueScope's and Customs and Border Protection's import volumes and unit prices is at **Confidential Appendix 3**.

7.4 Normal values

7.4.1 China

7.4.1.1 Particular market situation

(i) Background

China is treated as a market economy country under Australia's Anti-Dumping provisions. Australia's provisions are in accordance with the WTO AD Agreement and provide for the rejection of domestic selling prices in market economy countries where it can be established that the market situation in the exporting country renders domestic selling prices unsuitable for normal value purposes.

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Generally, Customs and Border Protection calculates the normal value of the goods as the price for like goods sold for home consumption in the country of export (s.269TAC(1) of the Act refers)⁷.

One of the exceptions to using domestic selling prices for determining normal values is set out in s.269TAC(2)(a)(ii) of the Act, which broadly provides that the domestic selling prices are not an appropriate basis for normal value if the Minister is satisfied that:

“the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under s.269TAC subsection (1)” (i.e. a ‘particular market situation’ exists).

One of these situations may be where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing normal values.

The existence of a particular market situation potentially affects the approach that Customs and Border Protection takes to calculating normal values under the Act in undertaking an assessment of whether goods have been exported to Australia at dumped prices.

(ii) BlueScope’s claims

In its application, BlueScope states that domestic selling prices within the domestic Chinese plate steel market are artificially low due to government influence on raw material prices (in particular, HRC, coking coal and/or coke and scrap steel). It claims that domestic selling prices in China are therefore unsuitable for establishing normal values under (under s.269TAC(1) of the Act) for the products exported from China, as a “*particular market situation*” exists in these markets.

To support the market situation claims, BlueScope refers to International Trade Remedies Report No.177 (REP 177) for HSS⁸ exported from China and other countries. In REP 177, Customs and Border Protection determined that a market situation existed for HSS sold domestically in China and that normal values for HSS exported from China to Australia could not be determined under s. 269TAC(1) of the Act. BlueScope highlighted that the Minister accepted this market situation finding.

In BlueScope’s view, the conclusions in REP 177 are equally applicable to plate steel sold in China as they are to HSS.

⁷ This price is subject to adjustments under s269TAC(8) of the Act to ensure any differences do not affect the comparison with the export price.

⁸ On 15 June 2011, Customs and Border Protection made public notification that it had initiated an investigation into the alleged dumping of HSS exported to Australia from China, Korea, Malaysia, Taiwan and Thailand. Following this investigation, Customs and Border Protection recommended to the Minister, that a dumping duty notice be published in relation to HSS exported to Australia from China, Korea, Malaysia and Taiwan and that a countervailing duty notice be published in relation to HSS exported to Australia from China except by Huludao and Qingdao Xiangxing (REP 177 refers). The Minister accepted Customs and Border Protection’s findings and recommendations as contained in REP 177 and this decision was publicly notified in *The Australian* newspaper and *the Gazette* on 3 July 012. REP 177 is available on Customs and Border Protection’s website at www.customs.gov.au.

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BlueScope claims that the Government of China (GOC) has heavily influenced the Chinese domestic market for plate steel through:

*“the provision of steel raw material products at less than adequate remuneration;
the prevalence of State Owned Asset Enterprises “(SOEs)” (also known as State-Invested Enterprises (SIEs)) involved in the manufacture of HRC in China that receive benefits for the production of HRC resulting in artificially low raw material input prices for galvanised steel producers; and
certain benefits received by producers of the GUC from the GOC including reductions in taxes, exemptions on duties and VAT (value added tax), the provision of grants, and concessional interest payments (i.e. government subsidies that impact the selling prices for plate steel manufactured in China)”⁹.*

In their applications BlueScope refers to Customs and Border Protection’s conclusions in REP 177 that the GOC plays a significant role in influencing the domestic iron and steel industry through its numerous broad, overarching GOC macroeconomic policies and plans that outline aims and objectives for the Chinese iron and steel industry, including:

- the National Steel Policy;
- National and regional five year plans and guidelines;
- a BluePrint for Steel Industry Adjustment and Revitalisation;
- the alignment of the GOC policies; and
- implementation measures (that go towards actively executing the aims and objectives of these policies and plans), as summarised below:
 - measures to eliminate backwards production capacity and to encourage technical and environmental improvement;
 - market entry criteria and industry operating conditions;
 - measures to curb ‘production capacity redundancy’;
 - guiding industry mergers and acquisitions;
 - import and export measures on coke;
 - subsidies in the iron and steel industry; and
 - other implementation measures, including impact of SOEs.

(iii) Trade Measures Review Officer recommendation on HSS

On 14 December 2012, the Trade Measures Review Officer (TMRO) published a report of his review of certain findings that formed part of the Minister’s decision to publish dumping and countervailing duty notices in respect of HSS exported to Australia from China. One of the findings reviewed at the request of a number of interested parties was that a situation in the market of China was such that sales in the Chinese domestic market were not suitable for use in determining a normal value.

The TMRO concluded that the evidence available to him failed to sufficiently establish that policies and plans of the GOC were being implemented and enforced in a manner

⁹ Galvanised Steel Application, pages 43-44 and Aluminium Zinc Coated Application, pages 44-45.

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as would support the market situation finding. The TMRO stated that he did not wish for his conclusion to be read as positively finding that there is definitely no market situation in the Chinese domestic HSS market. His view was that the available evidence was not adequate to definitively establish a market situation finding.

On 14 January 2013, the Minister accepted the TMRO's recommendation and requested that the CEO of Customs and Border Protection reinvestigate a number of findings, including that a particular market situation exists in the HSS domestic market in China. The reinvestigation is currently ongoing.

(iv) Customs and Border Protection's assessment

Customs and Border Protection considers that, at the consideration stage, BlueScope has provided sufficient information and evidence to support the claims that the market situation findings in respect of HSS (REP 177 refers) are also relevant and applicable to the Chinese plate steel market. This is notwithstanding the Minister's acceptance of the TMRO's recommendation in relation to the HSS market situation finding. The TMRO does not discount that a market situation may exist in respect of the HSS market in China but concluded that the available evidence was not adequate to establish such a finding.

The TMRO commented that his uncertainty about whether a market situation existed was in part due to the GOC not providing all the factual material sought from it by Customs and Border Protection. The plate steel investigation will provide an opportunity for Customs and Border Protection to collect further information on government influence on the iron and steel industry in China and on the plate steel sector in particular.

Customs and Border Protection considers that there are reasonable grounds, at the application consideration stage, for claiming that Chinese domestic selling prices for plate steel are not suitable to determine normal values under s. 269TAC(1) of the Act.

7.4.1.2 China normal values

(i) BlueScope's claims

BlueScope claimed that it did not have access to the cost of production for Chinese plate steel producers and therefore cannot assess normal values using costs. Further it claimed that Chinese export prices to third countries cannot be used to establish normal values as these are also influenced by GOC policies.

To estimate normal values for non-alloy exports from China, BlueScope used average quarterly domestic selling prices for base-grade plate sold domestically in Korea and Taiwan. These costs were adjusted based on BlueScope's overall conversion costs to produce plate steel (also taking into account of an adjustment factor for Chinese energy and labour rate costs).

Selling, general and administration (SG&A) costs were also based upon BlueScope's SG&A expenses. BlueScope applied a profit level of five percent which it claimed was well below the industry's *return* for adequate reinvestment purposes.

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BlueScope also estimated a normal value for the Q&T Green Feed plate it understands is exported to Australia from China by adding an estimate of the extra charged for the Q&T Green Feed product compared to standard non-alloy plate steel.

(ii) Customs and Border Protection's assessment

Customs and Border Protection considers that, based on the information submitted in the application, the applicant's estimate of normal values for plate steel sold in China appears to be reasonable. The applicant has supported its estimates with information that is reasonably available to it and, where assumptions have been made, has explained the basis for those assumptions. Where appropriate, the applicant has used data from independent sources, to make adjustments to costs (i.e. energy and labour costs) to make them appropriate to their understanding of industry conditions in China.

The applicant has included a profit margin (although the profit estimate was not supported by source documentation) as part of the adjustment of Korean/Taiwanese plate prices.

Customs and Border Protection is also satisfied that, based on the information submitted in the application. An upward adjustment for value-added-tax (VAT) payable on exports of plate steel from China may be required. The need for such an adjustment will be explored in the course of the investigation.

7.4.2 Indonesia, Japan, Korea and Taiwan

7.4.2.1 BlueScope's claims

BlueScope obtained domestic selling prices in Indonesia, Japan, Korea and Taiwan from a range of confidential sources. The prices for the "base product" were adjusted for BlueScope's estimate of common mix of grades (250MPa and 350MPa) supplied to the Australian plate steel market. The adjustment was based on information obtained by BlueScope on extras applying to export offers from each of the nominated countries.

BlueScope understands that exports to Australia from one of the countries include a proportion of Q&T green feed product. For the country in question, BlueScope estimated a normal value for both non-alloy product and Q&T green feed plate steel and calculated a weighted average normal value to compare to export prices.

BlueScope converted the prices quoted from each source to Australian dollars using monthly exchange rates used by the company. For one country the prices quoted are ex-works and the others are free-into-store (FIS).

7.4.2.2 Customs and Border Protection's assessment

Customs and Border Protection considers that, based on the information submitted in the application, the applicant's normal values for plate steel sold in Indonesia, Japan, Korea and Taiwan appear to be reasonable. The applicant has supported its normal values with information that is reasonably available to it and from sources that appear to be reliable.

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The estimated mix of imports between 250MPa and 350MPa plate steel seems reasonable based on BlueScope's sales data. As noted below, Customs and Border Protection also estimated dumping margins without incorporating the extra amount for a proportion of 350MPa, in case the proportion of 350MPa imports is lower than estimated or no extra amount applies to 350MPa sold on the domestic markets of the nominated countries).

Customs and Border Protection also considers that the normal value for the country where imports are estimated to be both non-alloy and alloy grades of plate steel are reasonably calculated. In its own estimates of normal values, Customs and Border Protection has weighted the normal values for the non-alloy and alloy grades according to its knowledge of import volumes of each taken from its import database.

Customs and Border Protection is satisfied that, based on the information submitted in the application, no further adjustments (at the consideration stage) to domestic selling prices are required.

7.5 Import volumes – nominated countries

From the information available from Customs and Border Protection's import database, it appears that imports of plate steel from each of the nominated countries represented more than 3% of the total import volume of plate steel in the period examined (1 October 2011 to 30 September 2012) and are therefore not in negligible volumes as defined in s.269TDA of the Act.

7.6 Dumping margins

Dumping margins for plate steel calculated by BlueScope and provided in its application are summarised in the following table.

Country	Dec quarter 2011	Mar quarter 2012	Jun quarter 2012	Sep quarter 2012
China	17.4%	10.6%	17.8%	9.7%
Indonesia	10.1%	19.1%	19.0%	7.8%
Japan	19.9%	7.5%	10.9%	1.6%
Korea	6.6%	10.9%	12.4%	9.8%
Taiwan	19.8%	17.3%	25.1%	18.5%

Estimated dumping margins for plate steel calculated by Customs and Border Protection using data from its import database (for export prices for Indonesia, Taiwan and Japan; and to weight the alloy/non-alloy normal values and deductive export prices for China and Korea) are summarised in the following table.

Country	Dec quarter 2011	Mar quarter 2012	Jun quarter 2012	Sep quarter 2012
China	10.8%	9.2%	13.4%	16.7%
Indonesia	25.3%	20.8%	25.5%	16.3%
Japan	19.9%	7.5%	10.9%	1.7%
Korea	14.8%	13.8%	13.9%	-1.5%
Taiwan	20.3%	17.6%	23.2%	11.8%

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The dumping margins calculated by Customs and Border Protection are in most cases similar to those estimated by BlueScope. Customs and Border Protection's estimated dumping margin calculations are at **Confidential Appendix 4**.

The 'extra' amount factored into the normal value calculations by BlueScope for 350 MPa grade plate is based on the amount charged in respect of exports from the nominated countries. Customs and Border Protection has observed in some previous steel cases that extra amounts on the domestic market of exporting countries do not always correspond to export pricing arrangements. As an additional test, Customs and Border Protection calculated dumping margins using normal values without the increment to account for the proportion of different grades (250mpa and 350mpa) estimated by BlueScope to have been exported to Australia. Customs and Border Protection found that the dumping margins calculated using this method remained at actionable levels.

Customs and Border Protection is satisfied that, based on the information submitted in the application, BlueScope has demonstrated that there appear to be reasonable grounds for concluding that plate steel has been exported to Australia from China, Indonesia, Japan, Korea and Taiwan at dumped prices.

8 REASONABLE GROUNDS – SUBSIDISATION

8.1 Finding

Having regard to the matters contained in the application and to other information considered relevant, there appear to be reasonable grounds to support the claim that:

- countervailable subsidies have been received in respect of plate steel exported to Australia from China;
- the total volume of plate steel exported to Australia from China over a reasonable examination period in respect of which a countervailable subsidy has been received is greater than 4 per cent of the total Australian import volume, and is therefore not negligible; and
- the total amount of the subsidy received in respect of plate steel exported to Australia from China over a reasonable examination period is likely to be greater than 2 per cent and is therefore not negligible.

8.2 Consultation with the Government of China

In accordance with s.269TB(2C), Customs and Border Protection invited the GOC for consultations during the pre-initiation phase. The purpose of the consultations was to provide an opportunity for the GOC to respond to the claims made within the application in relation to countervailable subsidies, including whether they exist and, if so, whether they are causing, or are likely to cause, material injury to an Australian industry.

The GOC accepted Customs and Border Protection's invitation to undertake consultations, which were held on 9 January 2013, via teleconference from Canberra (Customs and Border Protection) to Beijing (GOC).

Prior to these consultations, the GOC was provided with a non-confidential version of the application and non-confidential attachments.

General matters discussed

The GOC's written and oral submission addressed aspects of the application other than the existence of countervailable subsidies including, inter alia, market situation claims. The GOC's written submission is attached to this report at **Non-confidential Attachment 1**.

As the intention and purpose of the consultations was to discuss the claims related to countervailable subsidies within the application, Customs and Border Protection has not in this report commented on these points of the GOC submissions relating to the dumping, injury or causal link claims. However, Customs and Border Protection assured the GOC that it would consider all the points included in the GOC submission, whether directly related to subsidies or otherwise. Accordingly, Customs and Border Protection has considered these submissions and does not consider that they change its view as to whether grounds exist to initiate an investigation.

Customs and Border Protection will address the GOC views in detail in the course of the investigation.

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Consideration of the countervailing application

Following is a summary of the GOC submission as it related to the issue of countervailable subsidies.

Denial of certain Customs and Border Protection's findings in the HSS report:

- State-invested enterprises ("SIEs") which supply raw materials to steel producers are not public bodies;
- SIEs do not make a financial contribution to HSS producers in the form of provision of goods that confers a benefit on those producers, because the provision is not made for less than adequate remuneration;
- there is no particular market situation in any of the relevant markets – for HSS, coated steel, or plate steel - such that sales in those markets do not permit a proper comparison with export sales; and
- the records of Chinese exporters of HSS, of coated steel and of plate steel absolutely and accurately record the costs of the purchased inputs for the production of those products, and there are no grounds whatsoever to substitute any other costs for them.

The application does not comprise sufficient evidence to initiate an investigation:

The GOC claimed that the application contained insufficient evidence to initiate investigations on the following grounds:

- the application purports to incorporate statements in the HSS Report "by reference", failing to meeting the requirement in Article 11.1 of the SCM Agreement.
- the applicant relies on findings in the HSS Report in relation to Program 20 for HRC and narrow strip for HSS production and assumes that these can be transferred across to HRC and steel slab used for making plate steel.
- the application relies on assertion that whatever is used to make plate steel is predominantly produced and supplied by SIEs in China and sold at less than adequate remuneration.
- in relation to the alleged program of public bodies selling coking coal for less than adequate remuneration: the claim is unsupported by evidence with no financial contribution/benefit identified to demonstrate the existence of a subsidy and no State invested enterprises identified.

Unsafe or unreliable information should not be accepted by Customs:

- Graph C-1.1 appears to be slightly different to the same graph provided by the applicant in the coated steel application, although they are supposedly from the same data.

The GOC submission noted that the GOC's comments regarding coking coal and the accuracy of the evidence provided by the applicant in relation to the coated steel application also apply to the current application.

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The submission from the GOC has been considered in the context of the countervailing programs alleged by the applicant, discussed below. Further consideration of the issues raised therein will be undertaken during the course of the investigation.

8.3 Subsidy programs alleged in the application

8.3.1 Programs investigated in hollow structural sections (REP 177)

The applicant has submitted that 26 subsidy programs previously found to be countervailable by Customs and Border Protection in REP 177 are applicable to the goods the subject of the current application. The applicant used the same numbering as that in REP 177 for ease of reference. The subsidy programs found in REP 177 that the applicant has also claimed are relevant for exporters of plate steel are summarised in the table below.

Program 1: Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones

Program 2: One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'

Program 5: Matching Funds for International Market Development for Small and Medium Enterprises

Program 6: Superstar Enterprise Grant

Program 7: Research & Development (R&D) Assistance Grant

Program 8: Patent Award of Guangdong Province

Program 10: Preferential Tax Policies for Foreign Invested Enterprises— Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years

Program 11: Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)

Program 12: Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai

Program 13: Preferential Tax Policies in the Western Regions

Program 14: Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipments

Program 15: Innovative Experimental Enterprise Grant

Program 16: Special Support Fund for Non State-Owned Enterprises

Program 17: Venture Investment Fund of Hi-Tech Industry

Program 18: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.

Program 19: Grant for key enterprises in equipment manufacturing industry of Zhongshan

Program 20: Hot rolled steel provided by government at less than fair market value

Program 21: Water Conservancy Fund Deduction

Program 22: Wuxing District Freight Assistance

Program 23: Huzhou City Public Listing Grant

Program 27: Huzhou City Quality Award (incorrectly labelled in the same manner as Program 28 in the application)

Program 28: Huzhou Industry Enterprise Transformation & Upgrade Development Fund

Program 29: Land Use Tax Deduction

Program 30: Wuxing District Public List Grant

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Program 31: Anti-dumping Respondent Assistance

Program 32: Technology Project Assistance

Program 35: Preferential Tax Policies for High and New Technology Enterprises

BlueScope has categorised those subsidies as either ‘Programs that provide for the Exemption/Reduction of Taxation’ or ‘Programs that provide Financial Grants’. BlueScope has referred to the findings in REP 177 and provided the legal basis, agency responsible for administering the subsidy, recipients of the subsidy and amount of the subsidy for each of the programs where that information was available in REP 177.

BlueScope submitted that “...*the identified taxation and grant programs detailed in Report No. 177 as countervailable subsidies in the HSS investigation would similarly apply to enterprises involved in the manufacture of plate steel.*”¹⁰

Customs and Border Protection’s assessment

Customs and Border Protection found in REP 177 that these programs meet the definition of a subsidy as defined in s.269T and are considered to be countervailable subsidies in line with s.269TAAC.

Customs and Border Protection considers there are reasonable grounds to believe that these programs are still in operation in China, and that due to:

- the nature of the goods and their manufacturing process; and
- the number of potential exporters identified by Customs and Border Protection in its preliminary research of imports, and the likelihood that at least some exporters will meet the eligibility criteria for each program;

there are reasonable grounds to conclude that exporters of plate steel may have received benefits under each program, and that their investigation is warranted.

8.3.2 Program 20: Hot rolled coil or slab provided at less than adequate remuneration

BlueScope’s allegation of a countervailable subsidy in relation to this program differs from the findings of REP 177 in that it has included steel slab in addition to hot rolled coil (HRC) as the subject of the alleged program.

BlueScope submitted that:

“...non-integrated Chinese exporters of plate steel have received a benefit from raw material hot rolled coil (“HRC”) or slab [supplied] by the GOC at less than adequate remuneration.

BlueScope understands that the HRC/steel slab used in the manufacture of the GUC is predominantly produced and supplied by State-Invested Enterprises (“SIEs”) in China at less than adequate remuneration. The SIEs are viewed as public bodies and that [sic] a financial contribution in the form of the provision of raw material inputs at less [than] adequate remuneration

¹⁰ BlueScope plate steel application, page 67.

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by the SIEs to the plate steel producers constitutes a countervailable subsidy.”¹¹

The application asserts that the findings of Customs and Border Protection in REP 177 that SIE manufacturers of HRC and narrow strip constitute ‘public bodies’ in relation to the subsidisation of HSS, is readily applicable to the circumstances of plate steel. Bluescope submits that the grounds for applying the findings in REP 177 to the circumstances of plate steel exported from China include:

“(i) the recent finalisation and publication of Report No. 177 dated 7 June 2012 provides a contemporaneous position on the HRC industry in China, including GOC input received for consideration by Customs and Border Protection as recently as circa 13 May 2012;

(ii) the investigation period in Report No. 177 is not far removed from the likely investigation period for this application (considered to be 1 October 2011 to 30 September 2012); and

(iii) the Chinese plate steel industry may include some non-integrated producers that purchase HRC or slab for use in the production of plate steel exported to Australia.¹²

BlueScope is asserting that this benefit is only applicable to non-integrated producers of plate steel, i.e. those exporters that purchase finished HRC or steel slab, rather than those exporters that produce their own.

Customs and Border Protection’s assessment

The definition of a subsidy under section 269T includes a financial contribution by a government or a public body of the country or of which that government is a member. Customs and Border Protection in REP 177 undertook an assessment of whether SIEs producing HRC and/or narrow strip constitute public bodies within the meaning of the Act. The assessment included consideration of the findings of the WTO Appellate Body in United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China, dispute DS379 (DS379).

Evidence examined by Customs and Border Protection and outlined in REP 177 found that SIEs were significant suppliers of HRC and/or narrow strip to HSS exporters in the period examined. Information provided by the GOC in response to the government questionnaire and supplementary government questionnaire in that investigation confirmed that the share of total domestic HRC and/or narrow strip production in China by SIEs is significant.

As outlined in REP 177, Customs and Border Protection found evidence that SIEs producing HRC and/or narrow strip were in fact exercising government functions and that the government exercises meaningful control over these entities and their conduct. As such Customs and Border Protection concluded that for the purposes of its investigation into the alleged subsidisation of HSS from China, SIEs producing and supplying HRC and/or narrow strip qualify as public bodies.

¹¹ BlueScope plate steel application, page 67

¹² BlueScope plate steel application, page 68.

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Customs and Border Protection observes that the evidence relied upon in REP 177 in making this assessment can be characterised as broadly applicable to the steel and iron industries in China. The included laws, policies, plans and measures are likely to be equally applicable to SIEs producing HRC, narrow strip, or steel slab used in the production of plate steel exported to Australia.

Based on the evidence contained in REP 177, Customs and Border Protection considers, at this consideration stage, that there appears to be reasonable grounds for the claim that non-integrated Chinese exporters of plate steel have purchased HRC, narrow strip, or steel slab in China from SIEs at prices that are less than adequate remuneration.

During the course of the investigation Customs and Border Protection will examine whether a subsidy exists and if so consider the most appropriate benchmark for determination of adequate remuneration during the investigation period.

8.3.3 Raw materials provided at less than adequate remuneration

BlueScope identified two programs it claims to be countervailable that involve the provision of raw materials at less than adequate remuneration. Each of the programs is examined in detail below.

Provision of coking coal at less than adequate remuneration

The applicant submitted that coking coal has been provided by the Government of China to exporters of the goods at less than adequate remuneration.

A substantial raw material input to production of the goods is coking coal, which is used in the smelting process to produce coke, a primary raw material used in the production of steel.

In its application, BlueScope states that ‘fully-integrated’ producers of steel are likely to produce coke using coking coal, rather than purchasing coke. It identified these fully integrated producers as the beneficiaries of this program.

BlueScope provided in the application an illustration of the various uses for different types of coal to establish that hard coking coal is used solely in the manufacture of coke for iron and steel production.

BlueScope claims that the export tax of 10% for coking coal in China influences the domestic price of coking coal by encouraging increased supply to the domestic market, which therefore results in lower prices for coking coal in China relative to prices globally. To support this claim, BlueScope provided a graph tracking the selling price for hard coking coal in China to a ‘World Contract’ price over the period October 2011 to September 2012. The global price nominated in the application is represented by the “C&F price ex-Australia” for hard coking coal. This benchmark was nominated on the basis that in 2009 Australian exports of coking coal comprised 51% of the market. In the data provided by the applicant, the world contract price was shown to be consistently higher than the domestic selling price in China. Chinese domestic prices (exclusive of VAT) for coking coal were on average 20% below the nominated benchmark for the twelve month period ended September 2012.

PUBLIC RECORD

The applicant claimed that over half of coking coal production in China was produced by SIEs, and that the two largest producers in China are both SIEs. BlueScope claimed that

“Steel production in China is dominated by SIEs that play a lead role in implementing the GOC’s policies that result in coking coal being sold for less than adequate remuneration.”¹³

The legal basis, agency responsible for administering the program and amount of subsidy were not provided. BlueScope considered this subsidy program analogous to Program 20 (HRC at less than adequate remuneration) in REP 177 in which the legal basis and agency responsible for administering the program were also not provided in the application, and for which the amount of the subsidy was determined during the course of the investigation.

Provision of coke at less than adequate remuneration

BlueScope submitted that exporters of plate steel from China receive coke at less than adequate remuneration from the GOC. As discussed above, coke is a key ingredient in steel making at the smelting stage of production. The applicant stated that the recipients of the benefit of this subsidy were “...*integrated* producers of plate steel that buy-in coke (as opposed to manufacturing in-house from coking coal).”¹⁴

The application states that the alleged subsidy in relation to coke is specific as coke is used only in the iron and steel industry.

BlueScope claims that the Government of China has imposed export taxes and quotas on coke that discourage exports and thereby increase domestic supply of coke, and reduce the price. BlueScope understands that the input costs for liquid steel manufacture in China are at comparatively lower prices than global prices as a consequence (in part) of the GOC’s 40 per cent export tax on coke that contributes to an oversupply of coke in China and lower domestic prices. BlueScope referred to REP 177, where Customs and Border Protection stated that “..*this increased volume of coke retained in China could reasonably be considered to have resulted in decreased prices.*”

The application contained a graph comparing the price of coke sold domestically in China to a Chinese export price and a ‘world export price’ over the period January 2003 to June 2012¹⁵. It demonstrated that from around April 2010 the Chinese domestic price for coke was at all times lower than the Chinese export price and the world export price.

The legal basis, agency responsible for administering the program and amount of subsidy were not provided. BlueScope considered this subsidy program analogous to Program 20 (HRC at less than adequate remuneration) in REP 177 in which the legal

¹³ BlueScope plate steel application, page 70

¹⁴ BlueScope plate steel application, page 71.

¹⁵ Sourced from a report by World Steel Dynamics, November 2012.

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basis and agency responsible for administering the program were also not provided in the application, and for which the amount of the subsidy was determined during the course of the investigation.

Customs and Border Protection's assessment

Whether subsidies provided by public bodies

Customs and Border Protection in REP 177 undertook an assessment of whether SIEs producing HRC and/ or narrow strip constitute public bodies within the meaning of the Act and taking into account recent findings of the WTO Appellate Body in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China, dispute DS379* (DS379).

As outlined in REP 177, Customs and Border Protection found evidence that SIEs were in fact exercising government functions and that the government exercises meaningful control over these entities and their conduct. It concluded that SIEs that produce and supply HRC and/ or narrow strip were public bodies.

Customs and Border Protection considers that the evidence and conclusions in REP 177 in relation to SIEs that produce and supply HRC and/or narrow strip provide reasonable grounds for considering that SIEs that produce and supply coking coal, or coke, are also likely to be public bodies.

Given that conclusion, the following assessment focuses on whether the claims in relation to less than adequate remuneration are sufficiently substantiated.

Coking coal provided at less than adequate remuneration

The applicant has provided evidence that more than 50% of domestic coking coal in China is supplied by SIEs. In REP 177 Customs and Border Protection stated that the practice in China was to import coking coal for input into coke production. An extract from a confidential independent third party source provided with the application states that Chinese domestic supply of coking coal has struggled to keep up with domestic demand, which is likely to explain the high import volumes. That same report shows that major SIEs produced around 208 million tonnes of 'premium' and 'fat coal', which was used almost entirely in coke manufacture, in 2011. In addition these SIEs produced almost 163 million tonnes of '1/3 coking coal', a small portion of which is used in power stations.

The applicant has compared the domestic price of coking coal in China with the Australian export price to support its claim that coking coal is provided at less than adequate remuneration. The applicant states that Australia is a suitable indicator of world prices as it is a major exporter of coking coal globally, accounting for 51% of such exports in 2009.

The applicant claims that the 10% export tax on coking coal contributes to lower domestic prices in China.

The data provided by the applicant shows that Australian export prices were higher than Chinese domestic prices for the 12 months ending September 2012.

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It is difficult to understand, based only on the information supplied with the application, why domestic prices in China would be lower than world prices given that demand for coking coal in China exceeds supply. The confidential independent third party report provided with the application states that Chinese steel and coke makers have had difficulty securing supply and refers to the 'favourable demand and price conditions' faced by coal mines in the 5 years to 2011. The report states that the Chinese mines' competitiveness may stem from relatively low wages and production shortcuts, which have become increasingly unacceptable. Other than these two factors, the report states that Chinese mines are high cost enterprises compared with mining operations in Australia and the United States.

The benchmark for determining adequate remuneration was discussed in Appendix C of REP 177. REP 177 states that the findings of the WTO Appellate Body in DS257 establish a preference for determining a benchmark for adequate remuneration with reference to internal prices in the investigated country as a starting point. In the case of coking coal, given:

- the claims of market situation currently being investigated in the investigation into alleged dumping of coated steel from China; and
- the predominance of SIEs in coking coal production in China,

it may not be appropriate to consider prices from private suppliers of coking coal in China in considering whether there are reasonable grounds to initiate an investigation. The second option is to consider import prices. As discussed above, China is a significant importer of coking coal and Australia is a significant supplier.

The applicant has demonstrated that Australian export prices for coking coal were higher than Chinese domestic prices during the twelve months ended September 2012. Information provided by the GOC during consultations for the coated steel applications relating to coking coal is still being investigated. At this stage it considers that the applicant has sufficiently established, to the best of its ability, that there appears to be reasonable grounds to investigate the applicant's claims that coking coal is being supplied in China at less than adequate remuneration.

The claims of the applicant and the counter-information supplied by the GOC will be investigated further in order to reach an informed conclusion.

Coke provided at less than adequate remuneration

BlueScope has provided a graph from a report from World Steel Dynamics as primary support for its claim that coke is supplied in China at less than adequate remuneration. The graph shows that the Chinese domestic price is well below the 'world export price' from around April 2010 through to June 2012. Customs and Border Protection notes that the extract from the World Steel Dynamics report provided with the application does not state the source of the 'world export price' depicted in the graph.

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BlueScope appears to rely on the Government of China's intervention in export taxes and quotas on coke as evidence for the existence of a subsidy. BlueScope also refers to a statement made by Customs and Border Protection in REP 177 that the export restrictions on coke could reasonably be considered to have resulted in reduced prices for coke.

The existence of high export taxes and quotas may result in reduced domestic prices for coke however rather than being evidence on its own of the existence of a subsidy any such reduced domestic prices may be evidence of:

- why domestic prices from private suppliers should not be considered as benchmarks for assessing adequate remuneration in the subsidy investigation; or
- the prices for the plate steel being lower than they otherwise would be had there been no government influence; and that production costs in the accounting records of the exporters concerning plate steel might be considered not to reasonably reflect competitive market costs.

Given the likely distorting effects on domestic prices of coke caused by high export taxes and export quotas, and having regard to the claims of market situation in relation to plate steel, Customs and Border Protection considers that prices from private suppliers of coke in China may not be reasonable benchmarks for determining adequate remuneration.

Having regard to the above, based on the evidence available at consideration, it is reasonable to use an external benchmark such as that provided by BlueScope to support the assertion that coke is provided at less than adequate remuneration.

Effective 1 January 2013, China has eliminated export tariffs on nine minerals (including coke) to comply with a World Trade Organisation ruling. The Nikkei Weekly (14/01/2013 edition) reports that China will also stop export quotas on materials such as coke. Customs and Border Protection will examine the implications of these changes throughout the course of the investigation.

BlueScope has not provided any evidence of the significance of SIE suppliers of coke in China in terms of the proportion of total coke supply in China represented by SIEs. Customs and Border Protection is aware from previous investigations that at least two significant steel producers in China that supply coke, being Hebei Iron and Steel and Wuhan Iron and Steel¹⁶, are SIE's. This will need to be further investigated.

Customs and Border Protection considers, based on the information available to it at this time, that Chinese exporters of the goods have purchased coke in China from SIEs, and that this price can reasonably be considered to be less than adequate remuneration. For this reason, Customs and Border Protection concludes that there are reasonable grounds to investigate whether a subsidy has been provided in the form of coke supplied at less than adequate remuneration.

¹⁶ Government of China non-confidential response to questionnaire for REP 177, Question C3.11

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In investigating this program the following issues will need to be considered:

- The extent to which plate steel producers purchase coke, as opposed to manufacturing it themselves. The World Steel Dynamics report provided with the application notes that there is increasingly adequate coke making capacity at steel plants and that Chinese steelmakers may receive energy credits when the coke oven is located at the steel plant;
- The extent to which SIEs supply coke to exporters of plate steel; and
- An appropriate benchmark for determining whether adequate remuneration is received by coke producers, including consideration of import prices.

TMRO recommendation on HSS

As explained above, the TMRO has recently recommended, and the Minister has accepted, that certain findings in the HSS investigation be reinvestigated by Customs and Border Protection. Two findings that are to be reinvestigated are:

- whether or not SIE's are public bodies: the TMRO concluded that the evidence failed to establish that SIE's were public bodies and, therefore, capable of making a financial contribution that could be regarded as a subsidy as defined in the legislation;
- whether HRC was provided for less than adequate remuneration: the TMRO concluded that, as Customs and Border Protection had no evidence as to the rates of return which HRC producers were achieving, it was unable to reach any conclusion about the adequacy of their remuneration.

Customs and Border Protection will have regard to the TMRO's views in undertaking the plate steel investigation, as well as the outcome of the HSS reinvestigation.

8.3.4 Other programs

BlueScope also noted¹⁷ that Wuhan Iron and Steel Group acknowledges on its website that it has received the following national awards:

- National Technology Innovation Award;
- National Quality Management Award;
- National Model Enterprise for Quality Performance;
- National User-Satisfied Leading Enterprise;
- National Award for Outstanding Contribution to Enterprise Management;
- National Civilized Enterprise.

Bluescope anticipated that these awards “...*attract a benefit similar to the National Brand of China and Superstar grants...*”¹⁸, which is presumably a reference to Programs 2 and 6 listed at Section 8.3.1.

¹⁷ BlueScope plate steel application, page 67.

¹⁸ BlueScope plate steel application, page 67.

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BlueScope did not provide any evidence of the legal basis, agency responsible for administering the program, or amount of the alleged subsidy. The information provided in relation to these six national awards is considered by Customs and Border Protection to be insufficient for the purposes of initiating a countervailing investigation at this stage.

However, in the course of the investigation, Customs and Border Protection will make enquiries to identify any other countervailable subsidies being received in respect of the exported goods.

8.3.5 Amount of subsidisation

Customs and Border Protection is satisfied following preliminary analysis of:

- the amount of the benefits received under countervailable subsidies investigated in the case of HSS from China (REP 177), particularly the program relating to the supply of raw materials at less than adequate remuneration; and
- the export prices of plate steel during the twelve months ended December 2012, taken from Customs and Border Protection's import database,

that the benefit received by Chinese exporters under the programs found to warrant investigation is likely to result in subsidy margins that are above negligible levels.

8.4 Conclusion – Subsidisation in China

Customs and Border Protection is satisfied that the benefits received by Chinese exporters of plate steel under the programs alleged in the application are likely to result in subsidy margins that are above negligible levels.

Based on an analysis of the evidence supplied in the application Customs and Border Protection considers that there are reasonable grounds for the publication of a countervailing duty notice in relation to the following subsidy programs. Note that the numbering used reflects the numbering proposed to be used in the investigation:

Program Number ¹⁹	Program Name	Program Type	Case 177 Program Number
1	Hot rolled coil provided by government at less than adequate remuneration	Remuneration	20
2	Steel slab provided by government at less than adequate remuneration	Remuneration	N/A
3	Coking coal provided by government at less than adequate remuneration	Remuneration	N/A

¹⁹ Refers to the program number that will be used in this investigation

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Program Number ¹⁹	Program Name	Program Type	Case 177 Program Number
4	Coke provided by government at less than adequate remuneration	Remuneration	N/A
5	Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones	Income Tax	1
6	Preferential Tax Policies for Foreign Invested Enterprises— Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years	Income Tax	10
7	Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)	Income Tax	11
8	Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai	Income Tax	12
9	Preferential Tax Policies in the Western Regions	Income Tax	13
10	Land Use Tax Deduction	Income Tax	29
11	Preferential Tax Policies for High and New Technology Enterprises	Income Tax	35
12	Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipments	Tariff & VAT	14
13	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'	Grant	2
14	Matching Funds for International Market Development for Small and Medium Enterprises	Grant	5
15	Superstar Enterprise Grant	Grant	6
16	Research & Development (R&D) Assistance Grant	Grant	7
17	Patent Award of Guangdong Province	Grant	8
18	Innovative Experimental Enterprise Grant	Grant	15
19	Special Support Fund for Non State-Owned Enterprises	Grant	16
20	Venture Investment Fund of Hi-Tech Industry	Grant	17
21	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.	Grant	18
22	Grant for key enterprises in equipment manufacturing industry of Zhongshan	Grant	19
23	Water Conservancy Fund Deduction	Grant	21
24	Wuxing District Freight Assistance	Grant	22
25	Huzhou City Public Listing Grant	Grant	23

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Program Number ¹⁹	Program Name	Program Type	Case 177 Program Number
26	Huzhou City Quality Award	Grant	27
27	Huzhou Industry Enterprise Transformation & Upgrade Development Fund	Grant	28
28	Wuxing District Public List Grant	Grant	30
29	Anti-dumping Respondent Assistance	Grant	31
30	Technology Project Assistance	Grant	32

Consequently, Customs and Border Protection considers that an investigation should be initiated into these programs.

It is noted that the initiation of an investigation into the above-listed programs does not preclude Customs and Border Protection from examining additional subsidy programs should further information be provided or otherwise come to light within a reasonable timeframe.

9 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

9.1 Findings

Having regard to the information contained in the application and to other information considered relevant, Customs and Border Protection is satisfied that BlueScope appears to have experienced injury in terms of:

- loss of sales volumes;
- loss of market share;
- price depression;
- price suppression;
- reduced revenues;
- reduced profits;
- reduced profitability;
- reduced domestic revenues;
- declining return on investment; and
- reduction in employment levels.

9.2 Legislative framework

Subsection 269TC(1) requires that the CEO must reject an application for a dumping duty notice or a countervailing duty notice if, *inter alia*, the CEO is not satisfied that there appears to be reasonable grounds for the publication of such notices. Under s.269TG of the Act, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that because of the dumping, material injury has been or is being caused or is threatened to the Australian industry producing like goods. Section 269TJ contains similar provision in relation to material injury caused by countervailable subsidies.

9.3 Injury claims

In respect of plate steel, BlueScope claimed²⁰ that the Australian industry has been injured through:

- loss of sales volume;
- lost market share;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced revenues;
- reduced return on investment;
- lower employment levels; and
- reduced attractiveness for re-investment.

²⁰ BlueScope plate steel application, page 34.

9.4 Commencement of injury

BlueScope estimated that

“...material injury from exports of plate from China, Indonesia, Japan, Korea and Taiwan commenced to impact profit and profitability in 2009/10 as the market recovered from the effects of the global economic downturn.”²¹

9.5 Approach to injury analysis

The injury analysis detailed in this section is based on the financial information submitted by BlueScope and import data from Customs and Border Protection's import database.

BlueScope provided production, cost and sales data for plate steel in total, and it also provided this data separately for:

- Pattern plate 8250;
- Pattern plate 8350;
- Pattern plate Q&T Green Feed; and
- All other pattern plate.

The data was provided in quarters for the period July 2007 to September 2012.

At the consideration stage, aggregate product data (total plate steel) has been used as the primary basis for the purpose of assessing the economic condition of the Australian industry. Analyses of the underlying data for the four sub-categories listed above indicated that the economic performance data (eg. price, volume and profit trends) was very similar to that exhibited in the aggregate data.

BlueScope sells a significant proportion of its plate steel product to related customers. Customs and Border Protection has treated these sales as arms' length for the purposes of this analysis. Customs and Border Protection will need to verify that the sales arrangements are arms' length in the course of the investigations.

9.6 Cumulation of injury

Subsection 269TAE(2C) of the Act provides for consideration of the cumulative effect of exports from different countries, if, after having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced;

the Minister is satisfied that it is appropriate to consider the cumulative effects.

Based on the information provided in the application, Customs and Border Protection is satisfied that in respect of the plate steel market the conditions of competition between imported and domestically produced like goods appear to be similar.

²¹ BlueScope plate steel application, page 26.

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BlueScope claimed that it is a price taker on the Australian market and that prices in Australia are driven by import parity²². In its application, BlueScope provided evidence of several examples of price undercutting in the domestic market by plate steel imports, where it was clear the imported goods were competing directly with BlueScope's products.

The information contained in Customs and Border Protection's imports database indicates that several importers of plate steel imported from a number of the nominated countries. Customs and Border Protection considers that this indicates that the products are used by the same or similar customers.

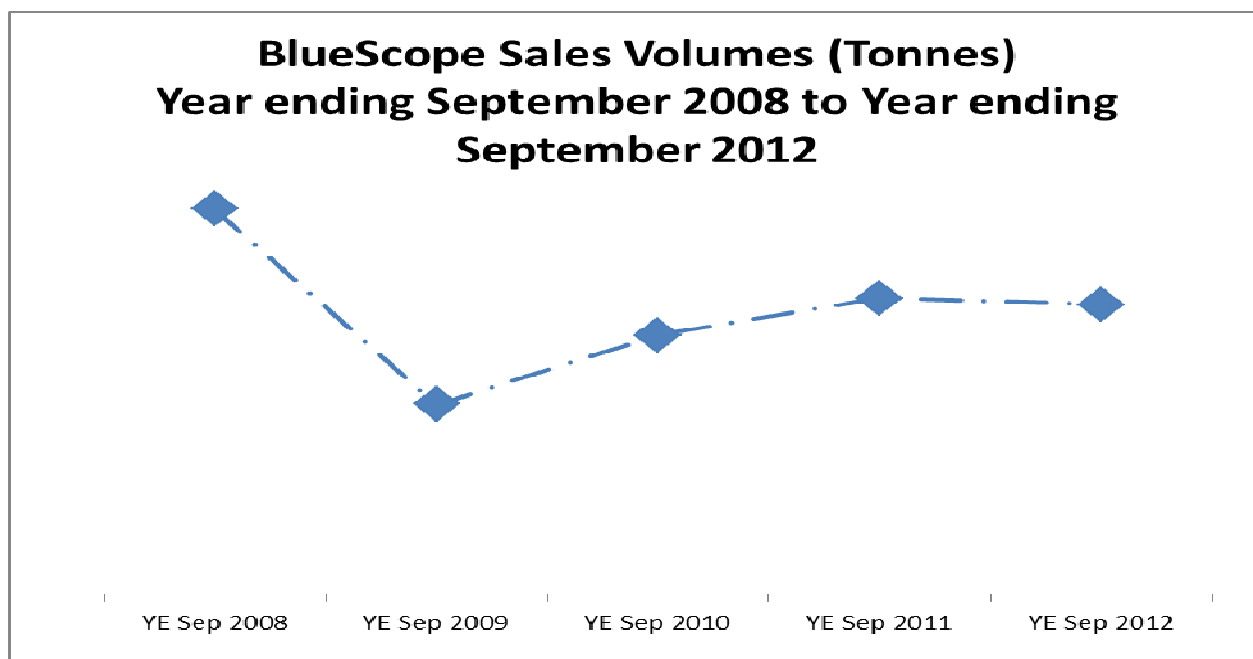
As discussed at Section 6, Customs and Border Protection is satisfied that BlueScope's plate steel is like to the imported plate steel, including similar specifications, similar end-uses, and they all compete in the same market segments.

Customs and Border Protection considers that it is appropriate to consider the cumulative effect of the allegedly dumped/subsidised imports.

9.7 Volume effects

9.7.1 Sales volume

The following graph shows BlueScope's domestic sales volumes for plate steel from YE September 2008 to YE September 2012.



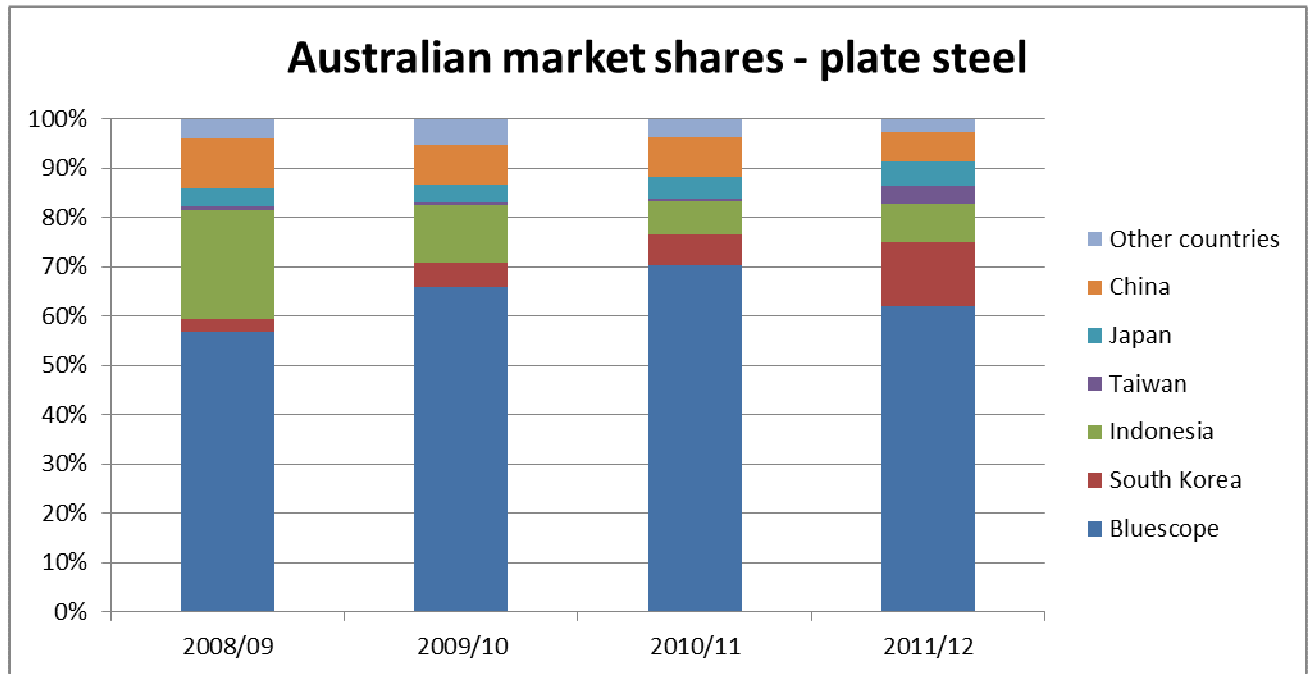
This graph shows that BlueScope's domestic sales volumes of plate steel decreased significantly in the YE September 2009, before increasing in each of the following two years. Its sales volume decreased again the YE September 2012.

²² BlueScope plate steel application, page 30.

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9.7.2 Market shares

The following graph shows movements in market shares, including BlueScope's share, in the Australian market for plate steel from YE September 2008 to YE September 2012.



The graph shows that BlueScope's market share in the Australian market for plate steel increased each year between YE September 2009 and YE September 2011, but fell significantly in the YE September 2012.

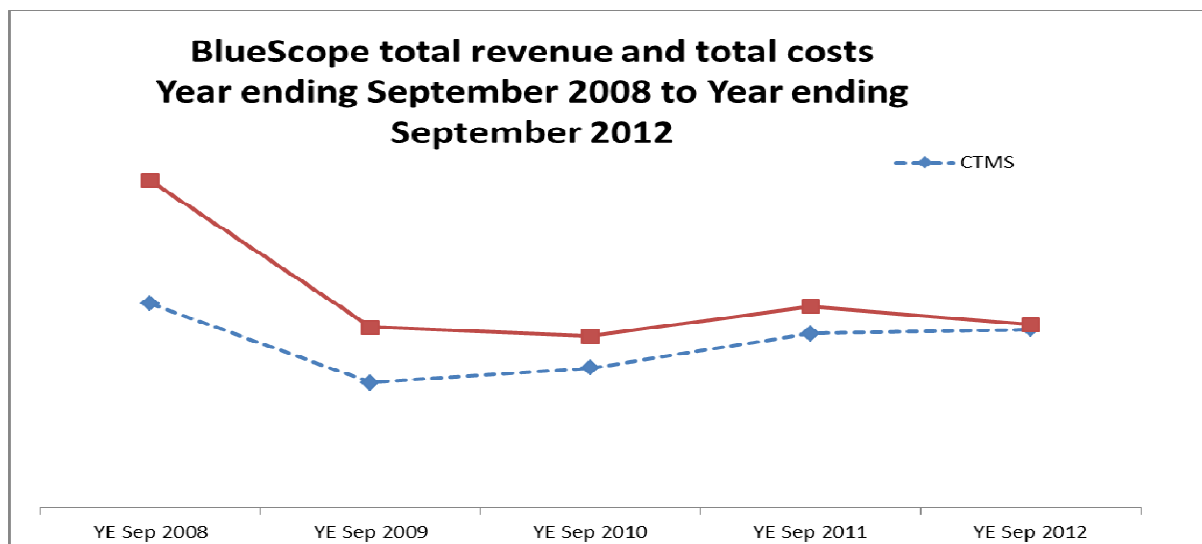
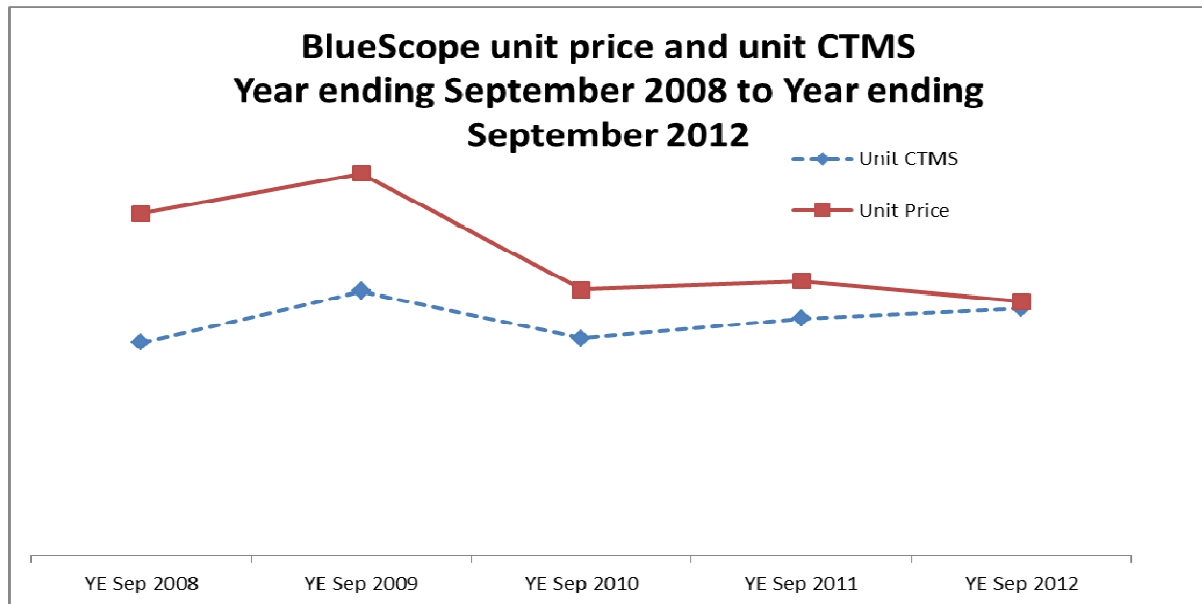
9.8 Price effects

9.8.1 Price depression and price suppression

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 graphs show the movements and relationships of BlueScope's net revenue and cost to make and sell (CTMS) for plate steel from YE September 2008 to YE September 2012. The first graph depicts total net revenues and total CTMS, while the second shows unit prices and unit CTMS.

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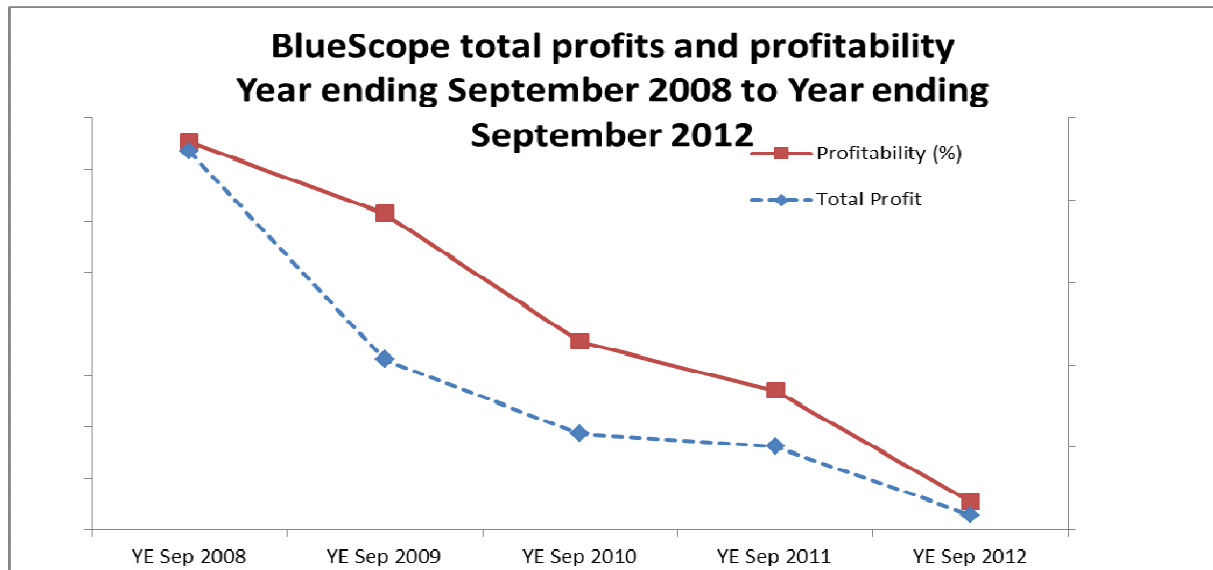


The graphs show that unit prices and total revenues have fallen over the five year period, while unit costs and total costs have been relatively more stable. This has resulted in a narrowing of the margin between revenue and costs, and between unit prices and unit costs. The graphs support BlueScope's claims of price depression and price suppression.

9.9 Profit effects

The following graph shows movements in BlueScope's total profits and profitability (profits measured as a percentage of revenue) for plate steel from YE September 2008 to YE September 2012.

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This graph shows significant decreases in BlueScope's profit and profitability in respect of plate steel in each year from YE September 2008 to YE September 2012.

9.10 Summary of major injury indicators

Based on the preliminary analysis detailed above, there appear to be reasonable grounds to support the claim that BlueScope has experienced injury in the form of:

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

The degree of injury experienced by BlueScope in terms of volume, price and profit factors appears to be material.

Customs and Border Protection's assessment of the economic condition on the Australian plate steel industry is at **Confidential Appendix 5**.

9.11 Other injury factors

9.11.1 BlueScope's claims

BlueScope completed a Confidential Appendix A7 for plate steel for the period YE September 2009 to YE September 2012. BlueScope claims that it has experienced injury in respect of the following other injury factors:

- reduced domestic revenues
- declining return on investment; and
- reduction in employment levels.

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Customs and Border Protection has reviewed the data contained in Confidential Appendix A7 and identified, in respect of plate steel, the following trends for other injury factors.

- Assets :The value of assets used in the production of plate steel increased over the period.
- Capital investment: The level of capital investment in relation to the production of plate steel fluctuated over the period.
- Research and development expenditure: The research and development expenditure in relation to the production of plate steel fluctuated over the period.
- Return On Investment: The return on investment in relation to plate steel decreased over the period.
- Revenue: The revenue in relation to sales of plate steel fluctuated over the period.
- Capacity: The production capacity in relation to plate steel fluctuated over the period.
- Capacity utilisation: Capacity utilisation in relation to production of plate steel increased over the period.
- Employment: The number of persons employed in relation to the production of plate steel decreased over the period.
- Productivity: Productivity (measured in production tonnes per person) in relation to the production of plate steel increased over the period.
- Wages: Expenditure on wages related to the production of plate steel increased over the period to September 2011 but fell in the year to September 2012.

9.11.2 Customs and Border Protection's assessment – other economic / injury factors (including revenue effects)

Based on the information contained in the application there appears to be reasonable grounds to support the claim that BlueScope has experienced injury in the form of:

- reduced domestic revenues;
- declining return on investment; and
- reduction in employment levels.

10 CAUSATION FACTORS

10.1 Findings

Having regard to the matters contained in the application and to other information considered relevant, Customs and Border Protection is satisfied that plate steel exported to Australia from China, Indonesia, Japan, Korea and Taiwan at allegedly dumped and subsidised prices (from China) appears to have caused material injury to the Australian plate steel industry.

10.1.1 The applicant's claims

BlueScope claims that in the twelve months to September 2012, the Australian plate steel market experienced volume growth of approximately nine per cent compared to the previous twelve-month period. This followed expansions of the plate steel market of approximately 30 per cent and 6 per cent in the previous two years (2009/10 and 2010/11).

BlueScope claims that exports of dumped and (in the case of China) subsidised plate steel from China, Indonesia, Japan, Korea and Taiwan have, in aggregate, increased by more than 40 per cent in 2011/12 accounting for the nine per cent market expansion in that year. BlueScope claimed its sales in 2011/12 had declined – a sharp contrast to the 40 per cent increase in dumped exports.

BlueScope stated that it was apparent that it had not benefited from increased demand in the Australian market during 2011/12 – the growth had been primarily supplied with dumped imports. BlueScope contends that the dumped exports from the nominated countries have displaced its domestic sales and accounted for the majority of market growth sales for plate steel in 2011/12.

BlueScope provided information that it claimed showed evidence of market offers for imported plate steel from exporters in each of the nominated countries. Some of the offers have been provided in written form, with the remainder being verbal offers that have been documented by BlueScope. Where available, BlueScope has identified the supplying mill in the country of export, along with the free-into-store price offer into the Australian market.

BlueScope also provided five specific examples where it claims that its prices had been undercut by prices of imports from the nominated countries.

BlueScope claimed that the price undercutting information supports its viewpoint that it has lost sales volume and market share to imported plate steel sourced from China, Indonesia, Japan, Korea and Taiwan, at prices that have been below BlueScope's prevailing price at the time of the offer. BlueScope stated that its response to the dumped (and subsidised) imported products is evident in its significant decline in selling prices from 2010/11 to 2011/12.

According to BlueScope, the rapid and substantial growth in export volumes from Japan, Korea and Taiwan in 2011/12, combined with the large dumping margins evident for exports from Indonesia, and the consistent volumes exported from China over recent years, have contributed to pricing pressures experienced by the

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Australian industry. BlueScope experienced cost increases in 2011/12 that it was unable to pass on through increased selling prices – it claims due to price undercutting from the dumped (and subsidised) imports of plate steel. In 2011/12, BlueScope experienced cost increases at a time when selling prices.

The price depression and suppression experienced by BlueScope in 2011/12 (as exports from the five countries increased by 40 per cent) contributed to a diminution in BlueScope's profit and profitability. In 2011/12, BlueScope's profit deteriorated by a very significant amount and the plate steel business' profitability by a similar proportion. BlueScope contends that the reductions in profit and profitability can be attributed to rapid and substantial increase in the dumped exports from the nominated countries in 2011/12.

10.1.2 Injury caused by factors other than dumping

BlueScope noted that the Australian steel market is aware of its announcement in 2011 to close one blast furnace and associated plant in Port Kembla, and the Hot Strip Mill in Victoria. BlueScope has removed the costs associated with this closure from the cost data as presented in the application.

BlueScope recognises that there has been a softening of the global demand for steel and steel products in 2012, however, maintains that the available data demonstrates that the Australian market for plate steel has experienced growth in 2011/12 of approximately nine per cent. BlueScope claims, however, that it has not participated in this growth as dumped and subsidised exports from China, and dumped exports from Indonesia, Japan, Korea and Taiwan have undercut BlueScope's selling prices to secure increased volumes in 2011/12.

The Australian dollar has remained above parity against the United States dollar for a significant proportion of the twelve month period to 30 September 2012, and is considered by BlueScope to have had an limited impact on its profitability for plate steel over this period. BlueScope claimed that the prima facie dumping margins for the exports of plate steel from the nominated countries far exceed the impact of the exchange rate.

BlueScope stated that it was apparent that the Australian market for plate steel in 2011/12 has not been weakened by any other events and that there has been a substantial rise in the sale of increased dumped (and subsidised) exports of plate steel to Australia in 2011/12.

10.1.3 Comparison of export prices and estimated non-injurious prices

As an additional test of the causal link between the alleged dumping and injury, Customs and Border Protection compared the estimated quarterly weighted average export prices from each of the nominated countries in the period October 2011 to September 2012 with a non-injurious price based on BlueScope's costs to make and sell in the same period 2011/12 with BlueScope's profit margin from the 2008/09 financial year (the year prior to BlueScope alleges it was impacted by dumping and subsidisation).

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The comparison showed that export prices were below the non-injurious price, a further indication of the dumping and subsidies causing injury to the Australian manufacturers.

10.1.4 Customs and Border Protection's assessment

Based on information provided in the application and information from Customs and Border Protection's import database, the Australian industry's share of the Australian market declined by approximately eight per cent in 2011/12 (to September) compared to the same period the previous year. Imports of plate steel from the nominated countries appear to have increased by 51 per cent over the same period.

The application contains probative evidence that the prices offered for the imported goods from the nominated countries have undercut the applicant's prices of the locally manufactured goods.

The undercutting appears to have inhibited BlueScope's ability to raise prices in line with the increase in the CTMS the locally manufactured product and in some cases appears to have caused it to lower its prices. The price depression and price suppression have adversely impacted BlueScope's profit and profitability.

The apparent loss of sales volume and market share, price undercutting, price depression and price suppression indicates that the allegedly dumped imports from the nominated countries caused injury to the Australian industry. The estimated product dumping margin for imports from China, Indonesia, Japan, Korea and Taiwan during 2011/12 is considered material. On the available information, the injury caused by the dumping and subsidies appears to be material.

10.2 Conclusion on material injury caused by dumped imports

Customs and Border Protection is satisfied that, based on the information submitted in the application, the applicant has demonstrated that:

- it appears to have suffered injury; and
- there appear to be reasonable grounds for concluding that the dumping of plate steel exported to Australia from China, Indonesia, Japan, Korea and Taiwan and the subsidisation of plate steel exported to Australia from China has caused material injury to the Australian industry producing like goods.

11 CONCLUSION

As discussed in this report, Customs and Border Protection has examined the application in respect of plate steel and is satisfied that:

- the application complies with s.269TB(4) of the Act;
- there is an Australian industry in respect of like goods;
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of plate steel exported to Australia from China, Indonesia, Japan, Korea and Taiwan; and
- there appear to be reasonable grounds for the publication of a countervailing duty notice in respect of plate steel exported to Australia from China.

Accordingly, the CEO has not rejected the application for the publication of dumping duty notices and a countervailing duty notice under s.269TC(1) of the Act.

For the purposes of the investigations:

- the investigation period to determine whether dumping has occurred and whether exports have benefited from countervailable subsidies will be from **1 January to 31 December 2012**; and
- Customs and Border Protection will examine the Australian market and the economic condition of the industry from **1 January 2008** for the purposes of injury analysis.

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12 APPENDICES AND ATTACHMENTS

APPENDIX	Title
Appendix 1	Delegate's notice
Confidential Appendix 2	Customs and Border Protection's estimate of the Australian market for plate steel
Confidential Appendix 3	Comparison of BlueScope's and Customs and Border Protection's import volumes and unit values
Confidential Appendix 4	Customs and Border Protection's dumping margin calculations
Confidential Appendix 5	Assessment of the economic condition of the Australian plate steel industry
ATTACHMENT	Title
Non Confidential Attachment 1	Written submission from the GOC.