



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**CONSIDERATION REPORT NO.
409 AND 410**

**CONSIDERATION OF TWO APPLICATIONS FOR
REVIEWS OF ANTI-DUMPING MEASURES APPLYING TO
ALUMINIUM ZINC COATED STEEL EXPORTED TO AUSTRALIA
FROM THE PEOPLE'S REPUBLIC OF CHINA BY**

**BAOSHAN IRON & STEEL CO., LTD. AND
SHANGHAI MEISHAN IRON & STEEL CO., LTD.**

May 2017

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ABBREVIATIONS

Abbreviation	Full title
ACBPS	Australian Customs and Border Protection Service
the Act	the <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicants	Baoshan Iron & Steel Co., Ltd. and Shanghai Meishan Iron & Steel Co., Ltd.
Baosteel	Baoshan Iron & Steel Co., Ltd.
BlueScope	BlueScope Steel Limited
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dongbu	Dongbu Steel Co., Ltd.
FIE(s)	foreign invested enterprise(s)
galvanised steel	zinc coated steel
the goods	aluminium zinc coated steel
HRC	hot rolled coil
ICD	interim countervailing duty
IDD	interim dumping duty
Korea	the Republic of Korea
Meishan	Shanghai Meishan Iron & Steel Co., Ltd.
REP 190	<i>International Trade Remedies Branch Report No. 190</i>
REP 193	<i>International Trade Remedies Branch Report No. 193</i>
REP 272 and 273	<i>Anti-Dumping Commission Report No. 272 and 273</i>
VAT	value-added tax

1 SUMMARY AND RECOMMENDATION

1.1 Background

This report outlines the Anti-Dumping Commission's (the Commission's) consideration of separate applications lodged by Baoshan Iron & Steel Co., Ltd. (Baosteel) and Shanghai Meishan Iron & Steel Co., Ltd. (Meishan) (together, the applicants) for reviews of the anti-dumping measures (in the form of a dumping duty notice and a countervailing duty notice) applying to aluminium zinc coated steel exported to Australia from the People's Republic of China (China) in so far as the anti-dumping measures affect the applicants.

The applicants consider it appropriate to review the anti-dumping measures because one or more of the variable factors relevant to the taking of the anti-dumping measures have changed. The variable factors that have allegedly changed are the normal value (relevant to the dumping duty notice) and the countervailable subsidy (relevant to the countervailing duty notice).

The Commission has examined the two applications separately; however, for administrative convenience, has published this combined consideration report.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)¹ sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in dealing with an application for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

1.3 Findings and conclusions

Based on the findings outlined in this report, the Commission is satisfied that, in relation to each application for review of the anti-dumping measures:

- the applications comply with subsections 269ZB(1) and (2); and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed.

1.4 Recommendation

The Commission recommends that the Commissioner not reject each of the two applications for the reasons outlined in section 3 of this report, and initiate separate reviews into the anti-dumping measures in so far as they relate to each applicant.

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

2 BACKGROUND

2.1 History of the existing anti-dumping measures

2.1.1 Original investigations

On 5 September 2012, a dumping investigation into aluminium zinc coated steel exported to Australia from China, the Republic of Korea (Korea) and Taiwan was initiated following an application by BlueScope Steel Limited (BlueScope).

On 26 November 2012, a countervailing investigation into aluminium zinc coated steel exported to Australia from China was initiated following an application by BlueScope.

The dumping investigation, as outlined in *International Trade Remedies Branch Report No. 190* (REP 190),² found that:

- aluminium zinc coated steel exported to Australia from China and Korea (except for Union Steel Co., Ltd.) was dumped with margins ranging from 5.5 per cent to 19.3 per cent;
- the volume of dumped goods from each of these countries and the dumping margins for all exporters (other than Union Steel Co., Ltd.) were not negligible;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

The countervailing investigation, as outlined in *International Trade Remedies Branch Report No. 193* (REP 193),³ found that:

- aluminium zinc coated steel exported to Australia from China (other than by Angang Steel Company Limited) was subsidised with margins ranging from 5.0 per cent to 21.7 per cent;
- the volume of subsidised goods from China and the countervailing margins for all exporters were not negligible;
- the subsidised goods caused material injury to the Australian industry producing like goods; and
- continued subsidisation may cause further material injury to the Australian industry.

² REP 190 investigated aluminium zinc coated steel and zinc coated (galvanised) steel exported to Australia from China, Korea and Taiwan. Due to the close nature of these products and common interested parties, findings from both dumping investigations were detailed in one report.

³ REP 193 investigated aluminium zinc coated steel and galvanised steel exported to Australia from China, Korea and Taiwan. Due to the close nature of these products and common interested parties, findings from both countervailing investigations were detailed in the one report.

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On 5 August 2013, the then Attorney-General, following consideration of REP 190 and REP 193, published:

- a dumping duty notice applying to aluminium zinc coated steel exported to Australia from China and Korea (with the exception of Union Steel Co., Ltd. from Korea); and
- a countervailing duty notice applying to aluminium zinc coated steel exported to Australia from China (with the exception of Angang Steel Company Limited).

The anti-dumping measures in respect of aluminium zinc coated steel were outlined in Anti-Dumping Notice (ADN) No. 2013/66.

2.1.2 Review of Investigation 193

Following a review by the Anti-Dumping Review Panel of certain findings made by the then Attorney-General, the then Parliamentary Secretary to the Minister for Industry decided to vary the countervailing duty notice so as to reduce the applicable countervailable subsidies by the amounts referable to programs 1 to 3 described in REP 193.

The decision to vary the countervailing duty notice required an amendment to the interim dumping duty (IDD) payable on imports of aluminium zinc coated steel. This is because the original dumping margins were reduced by the amount of subsidy attributable to subsidy programs 1 to 3 in determining the IDD payable.

Notice of that decision was published on 20 February 2014.⁴ The notice had retrospective effect from 5 August 2013.

2.1.3 Review of measures – Dongbu Steel Co., Ltd.

On 1 October 2014, Dongbu Steel Co., Ltd. (Dongbu) lodged an application requesting a review of the anti-dumping measures applying to aluminium zinc coated steel exported to Australia from Korea. *Anti-Dumping Commission Report No. 272 and 273* (REP 272 and 273) recommended that the dumping duty notice have effect in relation to Dongbu as if different variable factors had been ascertained.

The then Parliamentary Secretary to the Minister for Industry and Science accepted the findings in REP 272 and 273 and altered the dumping duty notice as it applied to Dongbu. Notice of the decision was published in the *Commonwealth of Australia Gazette* on 3 August 2015 and *The Australian* newspaper on 4 August 2015.⁵

On 16 November 2016, Dongbu applied for a review of the anti-dumping measures applying to aluminium zinc coated steel exported from Korea to Australia, again claiming that the dumping duty notice ought to have effect in relation to Dongbu as if different variable factors had been ascertained.

⁴ ADN No. 2014/12.

⁵ ADN No. 2015/83 refers.

The review was initiated on 7 December 2016, and a statement of essential facts in respect of this review was published on 3 May 2017.⁶

2.1.4 Review of measures – Chinese and Taiwanese exporters

Between 5 August 2016 and 8 September 2016, the Commissioner received nine applications for reviews of the anti-dumping measures applying to aluminium zinc coated steel and galvanised steel exported to Australia from China and Taiwan.

Further details of the initiation of the nine reviews and a full description of the relevant goods is available in ADN No. 2016/86, 2016/87, 2016/101 and 2016/102.

On 10 April 2017, a final report was submitted to the Parliamentary Secretary to the Minister for Industry, Innovation and Science and the Assistant Minister for Industry, Innovation and Science concerning the nine reviews.⁷

2.2 The current applications

On 18 April 2017, the Commissioner received two separate applications for a review of the anti-dumping measures applying to aluminium zinc coated steel exported to Australia from China.

Both applicants claim there has been a change in the variable factors (i.e. normal value and amount of countervailable subsidy received) relevant to the taking of the anti-dumping measures.

The applications are not precluded by subsection 269ZA(2), which requires that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of the notice, or the publication of a notice declaring the outcome of the last review of the notice.⁸

Pursuant to subsection 269ZC(1), the Commissioner must, within 20 days after receiving each application, examine the application and decide whether to reject the application. As such, the decision whether to reject each application must be made by 8 May 2017.

If the Commissioner is not satisfied, having regard to the application and to any other information that he considers relevant, of one or more matters referred to in subsection 269ZC(2), the Commissioner must reject the application.

⁶ Statement of Essential Facts No. 385 and 386 refers.

⁷ On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this decision the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

⁸ A notice declaring the outcome of the last review of the dumping duty notice was published on 3 August 2015. The countervailing duty notice has not been reviewed since its original publication.

2.3 The goods subject to the anti-dumping measures

The goods to which the current dumping duty and countervailing duty notices apply (the goods) are:

“flat rolled products of iron and non-alloy steel of a width equal to or greater than 600mm, plated or coated with aluminium-zinc alloys, not painted whether or not including resin coating.”

The amount of aluminium zinc coating on the steel is described as its coating mass and is nominated in grams per square metre with the prefix being AZ (aluminium zinc). Common coating masses used are: AZ200, AZ150, AZ100, and AZ70.

The goods include aluminium zinc coated steel whether or not including any (combination of) surface treatment, for instance; whether passivated or not passivated (often referred to as chromated or unchromated), resin coated or not resin coated (often referred to as Anti Finger Print (AFP) or not AFP), oiled or not oiled, skin passed or not skin passed.

2.3.1 Excluded goods

Painted aluminium zinc coated steel, pre-painted aluminium zinc coated steel and corrugated aluminium zinc coated steel are not covered by the dumping duty and countervailing duty notices.

2.3.2 Tariff classification of the goods

Goods identified as aluminium zinc coated steel, as per the description above, are classified to tariff subheading 7210.61.00 (statistical codes 60, 61 and 62) in Schedule 3 to the *Customs Tariff Act 1995*.

The goods exported to Australia from China under this tariff subheading are currently subject to a 2 per cent rate of customs duty. Due to the *China-Australia Free Trade Agreement*, the customs duty is progressively reducing each calendar year and will be duty free from 1 January 2019.

3 CONSIDERATION OF THE APPLICATIONS

3.1 Legislative background

Subsection 269ZB(1) requires that an application for review be in writing, be in a form approved by the Commissioner for the purposes of section 269ZB, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that the form requires to be included, subsection 269ZB(2) provides that an application must include:

- a description of the kind of goods to which the measures the subject of the application relate; and
- a description of the measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
 - the variable factors relevant to the taking of the measures taken that have changed; and
 - the amount by which each such factor has changed; and
 - the information that establishes that amount;
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters which the Commissioner must consider in making a decision whether to reject an application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
 - that the variable factors relevant to the taking of anti-dumping measures have changed;
 - that the anti-dumping measures are no longer warranted.

3.2 Assessment of the applications for a review of variable factors

3.2.1 Compliance with subsections 269ZB(1) and (2)

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that each of the applications submitted:

- are in writing;
- are in the approved form (*Form B602 – Application for a review of measures*) and contain such information as the form requires (including evidence to support the amount by which the different variable factors, where applicable, have changed since anti-dumping measures were last imposed, and

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information on the causes of the change and whether those causes are likely to persist);

- are signed in the manner required by the form;
- were lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provide a description of the kind of goods to which the anti-dumping measures the subject of the applications relate;
- provide a description of the anti-dumping measures the subject of the application; and
- include a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the anti-dumping measures that have changed; the amount by which each factor has changed; and the information that establishes that amount.

The Commission is satisfied that each applicant has satisfied the requirements of subsections 269ZB(1) and (2).

The Commission considers that to comply with section 269ZB, the applicants must provide information to establish that, in the applicant's opinion, one or more of the variable factors have changed. The following sections address each applicant's claims that there has been a change in the variable factors.

3.2.2 Variable factors – Baosteel

In its application, Baosteel claims that one or more of the variable factors, being the normal value and countervailable subsidy, relevant to the taking of the measures have changed.

Baosteel's variable factors are those currently applicable to 'uncooperative and all other' exporters. As such, Baosteel is subject to a combined fixed IDD and interim countervailing duty (ICD) of 29.6 per cent and a variable component of IDD where the actual export price is below the ascertained export price.

Ascertained normal value

In Investigation 190, normal values for uncooperative Chinese exporters were determined in accordance with subsection 269TAC(6), using the highest weighted average normal values for the investigation period from selected Chinese cooperating exporters.

Investigation 190 established that, in accordance with subsection 269TAC(2)(a)(ii), a situation exists in the domestic Chinese market that renders domestic selling prices of aluminium zinc coated steel as being unsuitable for the purposes of determining normal values for aluminium zinc coated steel under subsection 269TAC(1).

Accordingly, normal values for cooperating exporters were constructed pursuant to subsection 269TAC(2)(c). Subsection 269TAC(2)(c) provides that, where the normal value cannot be ascertained under subsection 269TAC(1), the normal value of the goods is to be calculated as:

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- the cost of production or manufacture of the goods in the country of export; and
- on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export, the selling, general and administrative costs associated with such a sale and the profit on that sale.

During Investigation 190, the then Australian Customs and Border Protection Service (ACBPS) found that, in determining the cost of production of the goods in China, the records of Chinese exporters of aluminium zinc coated steel did not reasonably reflect competitive market costs associated with the production and manufacture of the goods, for the purposes of then Regulation 180 of the *Customs Regulations 1926*.

Specifically, the then ACBPS indicated that:

“HRC [hot rolled coil] prices are affected by GOC [Government of China] influences and do not reasonably reflect competitive market costs.”

On the basis that HRC costs represented a significant proportion of the cost to manufacture aluminium zinc coated steel, as part of Investigation 190, an adjustment had been made to the costs relating to HRC for each Chinese exporter, as recorded in the exporters’ records, to reflect a competitive market cost for HRC when constructing normal values.

Given the Commission’s previous approach in constructing the normal values, Baosteel claims that global iron ore prices, and therefore HRC prices, have significantly declined since the original investigation period (1 July 2011 to 30 June 2012) which has resulted in a corresponding decrease in the costs of producing aluminium zinc coated steel.

Baosteel claims that HRC prices have declined by 48.1 per cent between the original investigation period and the 2016 calendar year. Baosteel based this claim on a comparison of the average SBB East Asia HRC import price observed during the original investigation period and other HRC price data available to it (refer **Confidential Appendix 1**).

The Commission notes that Baosteel, in demonstrating the likely change in the normal value, provided HRC prices relating to the period 1 July 2015 to 30 June 2016, and not calendar year 2016 as it had claimed in its application.

On the basis of the 48.1 per cent decline in average HRC prices since the original investigation period, Baosteel provided an estimate of the contemporary normal value relating to uncooperative and all other exporters using information available to it. Baosteel also provided an estimate of the current ascertained normal value relating to uncooperative and all other exporters. Baosteel compared the estimated contemporary normal value to the estimated ascertained normal value to demonstrate that this variable factor has changed (refer **Confidential Appendix 2**).

To assess whether there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of measures have changed, the Commission analysed contemporaneous information⁹ relating to iron ore (a core raw material input to the production of HRC) and HRC prices (relating to the East Asian region and China), which are highly correlated.

The Commission compared the prices of iron ore and HRC prices over the original investigation period and the period 1 April 2016 to 31 March 2017¹⁰ (refer **Confidential Appendix 3**).

This comparison demonstrates that the average iron ore and HRC prices observed in the period 1 April 2016 to 31 March 2017 were lower than the average prices observed in the original investigation period.

Ascertained countervailable subsidy

In its application, Baosteel claims that the amount of countervailable subsidy has changed.

Baosteel claims that Program 5 (Preferential Tax Policies for Foreign Invested Enterprises (FIEs) – Reduced Tax Rate for Productive FIEs), found to be a countervailable subsidy in the original investigation, does not apply to Baosteel as it is not a FIE. Baosteel claims that its largest shareholder is Baosteel Group Corporation, which is wholly-owned by domestic rather than foreign parties.

Further, Baosteel claims that it has not received any benefits under Programs 9, 12, 14-29, 32, 34-36.¹¹ Baosteel claims that none of the identified locations or government authorities are applicable to Baosteel as the company is located in Baoshan, Shanghai.

In its application, Baosteel provided an excerpt from its 2015 annual report¹² that shows it received various government grants, which it identified as non-operating income in its financial statements. Baosteel claims that, while it does not consider these grants to be countervailable, it has included these grants for the purpose of estimating its contemporary subsidy margin that it has compared to the current countervailing subsidy margin applying to uncooperative and all other exporters.

The Commission also notes that in Baosteel's 2015 annual report, on page 118, deferred income identified as 'government subsidies' is listed. Some of these 'deferred income-government grants' encompass grants referred to as 'key industries and comprehensive technology transformation projects', 'interest allowance on special loans', 'allowance for infrastructure' and 'compensation from relocation'. It is unclear whether these grants were previously found to be countervailable subsidies in the original investigation (REP 193).

⁹ Steel price data obtained from Platts (paid subscription).

¹⁰ The most recently completed quarter.

¹¹ Refer REP 193 for information in relation to the subsidy programs found to be countervailable in the original investigation.

¹² Baosteel's 2015 annual report is available at <http://bg.baosteel.com/en/contents/3818/65457.html>.

The Commission considers that Baosteel has provided sufficient information to establish the amount by which the countervailable subsidy has changed.

Commission's assessment

The Commission is satisfied that there appear to be reasonable grounds for asserting that one or more of Baosteel's variable factors, being the variable factors of normal value and countervailable subsidy, relevant to the taking of anti-dumping measures have changed.

3.2.3 Variable factors – Meishan

In its application, Meishan claims that one or more of the variable factors, being the normal value and countervailable subsidy, relevant to the taking of the measures have changed.

Meishan's variable factors are those currently applicable to 'uncooperative and all other' exporters. As such, Meishan is subject to a combined fixed IDD and ICD of 29.6 per cent and a variable component of IDD where the actual export price is below the ascertained export price.

Ascertained normal value

Consistent with Baosteel's claims, Meishan claims that global iron ore prices, and therefore HRC prices, have significantly declined since the original investigation period (1 July 2011 to 30 June 2012) which has resulted in a corresponding decrease in the costs of producing aluminium zinc coated steel.

Meishan based this claim on a comparison of the average SBB East Asia HRC import prices observed during the original investigation period and other HRC price data available to it (refer **Confidential Appendix 1**).

Given the 48.1 per cent decline in average HRC prices since the original investigation period, Meishan provided an estimate of the contemporary normal value relating to uncooperative and all other exporters using information available to it (refer **Confidential Appendix 4**).

To assess whether there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of measures have changed, the Commission compared the prices of iron ore and HRC prices (relating to the East Asian region and China) over the original investigation period and the period 1 April 2016 to 31 March 2017 (refer **Confidential Appendix 3**).

This comparison demonstrates that the average iron ore and HRC prices observed in the period 1 April 2016 to 31 March 2017 were lower than the average prices observed in the original investigation period.

Ascertained countervailable subsidy

In its application, Meishan claims that the amount of countervailable subsidy has changed.

Meishan claims that Program 5 (Preferential Tax Policies for FIEs – Reduced Tax Rate for Productive FIEs), found to be a countervailable subsidy in the original investigation, does not apply to Meishan as it is not a FIE. Meishan claims that its largest shareholder is Baosteel Group Corporation, which is wholly-owned by domestic rather than foreign parties.

Further, Meishan claims that it has not received any benefits under Programs 9, 12, 14-29, 32, 34-36.¹³ Meishan claims that none of the identified locations or government authorities are applicable to Meishan as the company is located in Nanjing City, Jiangsu Province.

Given that Meishan is a subsidiary of Baosteel, Meishan provided information from Baosteel's 2015 annual report, which shows that it was in receipt of various government grants (discussed in section 3.2.2). Meishan claims that while it does not consider these grants to be countervailable, it has included these grants for the purpose of estimating its contemporary subsidy margin which it has compared to the current countervailing subsidy margin applying to uncooperative and all other exporters.

The Commission considers that Meishan has provided sufficient information to establish the amount by which the countervailable subsidy has changed.

Commission's assessment

The Commission is satisfied that there appear to be reasonable grounds for asserting that one or more of Meishan's variable factors relevant to the taking of anti-dumping measures have changed.

3.2.4 Assessment of applications – compliance with section 269ZC

Based on the Commission's analysis in sections 3.2.2 and 3.2.3, there appear to be reasonable grounds in respect of each application for asserting, under subsection 269ZC(2)(b)(i), that the variable factors relevant to the taking of anti-dumping measures have changed.

Based on this assessment, the Commission recommends that the Commissioner not reject each of the two applications made in relation to a change in variable factors pursuant to subsection 269ZC(1) as it is satisfied of the matters referred to in subsection 269ZC(2) in respect of each application.

¹³ Refer REP 193 for information in relation to the subsidy programs found to be countervailable in the original investigation.

4 CONCLUSIONS AND RECOMMENDATIONS

The Commission has considered each application in accordance with sections 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the applications and other relevant information as detailed in this report, that:

- the applications comply with section 269ZB; and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the anti-dumping measures have changed.

The Commission recommends that:

- the Commissioner not reject the two applications for a review of the variable factors and initiate two reviews into the current anti-dumping measures applying to Baosteel and Meishan; and
- for each review, that the period from 1 April 2016 to 31 March 2017 be examined for the purpose of reviewing the variable factors.

5 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Baosteel's and Meishan's HRC price analysis
Confidential Appendix 2	Baosteel's estimate of the normal value
Confidential Appendix 3	The Commission's iron ore and HRC price analysis
Confidential Appendix 4	Meishan's estimate of the normal value