7 December 2017

The Director
Operations 1
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601

Dear Sir/Madam,

Review Inquiry No. 450 – Aluminium zinc coated steel exported from the People’s Republic of China and the Republic of Korea – USP/NIP, Form of Measures, Export Prices

I. Executive Summary

This submission proposes that the Commissioner recommends to the Parliamentary Secretary:

- The unsuppressed selling price ("USP") and subsequently derived non-injurious price ("NIP") be based upon the full margin of dumping determined for each exporter;
- The form of measures to be applied to the exported goods be based upon the combination method, as accepted by the then Attorney-General in Report No. 190; and
- For those exporters where no exports, or a low volume of exports, during the investigation period, the ascertained export price should be determined based upon the export price(s) of uncooperative exporters from the country under investigation (with adjustments as required).

BlueScope Steel Limited ("BlueScope") welcomes the opportunity to discuss the matters identified above as appropriate.

II. Background

This investigation concerns the review of measures applicable to aluminium zinc coated steel exported from the People’s Republic of China ("China") and the Republic of Korea ("Korea"). The review was commenced following a request by the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the "Parliamentary Secretary") to review the dumping and countervailing measures as they affect exporters of aluminium zinc coated steel exported to Australia from China and Korea.

The decision of the Parliamentary Secretary was dated 2 November 2017.

The applicable review period for the investigation is 1 October 2016 to 30 September 2017 and extends to all exporters of the goods from China, Korea (except Dongkuk Steel Mill Co Ltd), and in respect of the countervailing duty notice applicable to exports from China, except for exports by Angang Steel Company

1 Refer ADN No. 2017/58 initiating a review of the measures.
The review will examine whether any of the variable factors applicable to the measures have changed.

At the recent Australian industry verification visit, BlueScope was requested to comment upon:

- A proposed USP/NIP;
- The form of measures to be applied; and
- Basis for ascertained export prices in the absence of exports by an exporter during the investigation period.

III. Proposed USP/NIP

The NIP for goods exported to Australia is derived from the USP and represents a selling price in the market necessary to prevent injury attributable to the dumped and/or subsidised goods. The NIP is determined in accordance with subsection 269TACA(a) and 269TACA(c) of the Customs Act. The Commission's approach to establishing an industry's USP observes the following hierarchy:

- Industry selling prices at a time unaffected by dumping and subsidization;
- Constructed industry prices using the industry's cost-to-make-and-sell ("CTM&S") plus profit; or
- Selling prices of un-dumped and un-subsidised imports.

Subsections 8 (5BAAA) and 10 (3A) of the Dumping Duty Act detail certain circumstances where the Minister does not have to have regard to the lesser duty rule. These circumstances include:

- The normal value of the goods was not ascertained under subsection 269TAC(1) because a particular market situation was evident (under subsection 269TAC(2)(a)(ii));
- There is an Australian industry in respect of like goods that consists of at least two small to medium sized enterprises ("SMEs"), whether or not that industry consists of other enterprises; or
- A countervailable subsidy has been received in respect of the goods and the country in relation to which the subsidy has been provided has not complied with Article 25 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement") for the compliance period.

The aluminium zinc coated steel measures were recently reviewed (Investigation No's 365, 366, 368, 371, 374, 376 and 386). In these reviews the Commission noted the Attorney-General's findings in Report No. 190:

"In Investigation No. 190, the ACBPS expressed the view that in a market unaffected by dumping, it is reasonable to expect that BlueScope would be able to achieve as a minimum, selling prices that reflected un-dumped import parity pricing. It was on this basis that the then ACBPS considered that the FOB NIP for each exporter be a price equal to their respective normal value. As such, the then Attorney general was not required to and did not have regard to the lesser duty rule."

In recent Reports No. 367, 372, 375 and 385, the Parliamentary Secretary has accepted the Commission's recommendation to establish the NIP at the normal value for each exporter. BlueScope sees no need to alter the Parliamentary Secretary's stance on the determination of applicable NIPs in the current investigation.

---

2 The Minister for Industry, Innovation and Science has delegated authority under the Anti-Dumping provisions to the Assistant Minister for Industry, Innovation and Science (the "Parliamentary Secretary").

3 Report No. 190, P.112.
IV. Form of measures

BlueScope also notes the Parliamentary Secretary’s acceptance of the Commissioner’s recommendation concerning the form of measures applicable to all exporters the subject of recent Review Investigations (i.e. review of variable factors) 367, 372, 375 and 385 concerning aluminium zinc coated steel exported from China and Korea.

The Commissioner proposed (and this was accepted by the Parliamentary Secretary):

“….that the IDD payable for galvanised steel and aluminium zinc coated steel for each exporter subject to review to be an amount which will be worked out in accordance with the combination duty method pursuant to subsection 5(2) of the Customs Tariff (Anti-Dumping) Regulation 2013, consistent with Investigation 190.” (emphasis added).

BlueScope concurs with the Parliamentary Secretary that the most appropriate form of measure to apply to exporters of aluminium zinc coated steel – particularly in a rising market as is applicable during the investigation period – is the combination duty method. BlueScope does not consider the alternate methods of duty sufficiently address injurious dumping in the steel industry.

V. Recommended export prices for exporters with no exports

The recent Customs Amendment (Anti-Dumping Measures) Bill 2017\(^4\) empowers the Minister to examine an appropriate export price for exporters that have not exported subject goods during a review investigation period. This legislative change addresses circumstances where there is an absence or low volume of exports by an exporter during the review investigation period thus enabling the Minister to calculate an export price (in the absence of actual or low volume exports) based upon alternate information.

The available information that may be considered includes:

- An export price(s) by the exporter that is an arms-length transaction or transactions by the exporter;
- The export price(s) for goods exported to third countries by the exporter;
- The export price for goods exported to Australia by another exporter or exporters in the country of export.

BlueScope acknowledges the recent introduction of the new provisions contained in subsection 269TAB (2A to 2G). BlueScope submits that where an exporter has transacted low volumes, or where there is a complete absence of exports of the goods to Australia during the investigation period, the preferred approach for the determination of an ascertained export price for the exporter should be made with regard to the original export prices determined for the purposes of the imposition of the measures under subsection 269TAB(2B)(a), adjusted for changes in the HRC input price in accordance with subsection 269TAB(2G).

This proposed methodology would ensure that the export price determined for the exporter in the absence of actual exports, or a low volume of exports, continues to reflect pricing behaviours apparent that resulted in the imposition of measures, in conjunction with an adjustment that reflects contemporary market pricing.

\(^4\) Customs Amendment (Anti-Dumping Measures) Bill 2017 received Royal Ascent on 30 October 2017.
BlueScope welcomes the opportunity to discuss the recommended basis for the USP/NIP, the combination form of measures as proposed, or the basis for export price for exporters with low volume or an absence of exports during the review investigation period.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4240 1214, or BlueScope’s representative Mr John O’Connor on (07) 3342 1921.

Yours faithfully,

[Signature]

Chad Uphill
Senior Commercial Specialist – International Trade Affairs