



CUSTOMS ACT 1901 - PART XVB

TERMINATION REPORT

ACCELERATED REVIEWS OF ANTI-DUMPING AND COUNTERVAILING MEASURES

ZINC COATED (GALVANISED) STEEL AND ALUMINIUM ZINC COATED STEEL EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA BY

SOUTH POLAR LIGHTS STEEL (SHANGHAI) CO., LTD

TERMINATION REPORT NO. 227/228

20 DECEMBER 2013

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1. SUMMARY AND RECOMMENDATIONS

The accelerated reviews are in response to an application received in writing and lodged in accordance with section 269ZF of the Act¹ by South Polar Lights Steel (Shanghai) Co., Ltd (SPLCO) seeking reviews (one for each product) of the dumping duty and countervailing duty notices applying to zinc coated (galvanised) steel and aluminium zinc coated steel exported to Australia from the People's Republic of China (China).

The application made by SPLCO was considered to determine if it was valid as required by sections 269ZE and 269ZF of the Act and the definitions provided in section 269T of the Act. There were no grounds to reject the application under sub-section 269ZE(2) and the exporter did not export during the new exporter period.

As the circumstances in which an accelerated review can be sought were satisfied, accelerated reviews were commenced.

This report sets out the aspects of the two accelerated reviews that SPLCO has refused to cooperate with, leading to the recommendation that the accelerated reviews be terminated.

1.1 Applicable law

Division 6 of Part XVB of the Act enables eligible parties to apply for an accelerated review of measures. The Division, among other matters:

- sets out the procedures to be followed by the Commissioner in dealing with applications or requests and preparing reports for the Minister; and
- empowers the Minister, after consideration of such reports, to leave the measures unaltered or to modify them as appropriate.

The Commissioner may terminate an accelerated review if satisfied that:

- the exporter is refusing to co-operate with any aspect of the review; or
- the exporter is related to an exporter who was a selected exporter in relation to the application for publication of that notice².

1.2 Recommendation

It is recommended that the Commissioner be satisfied that SPLCO has refused to co-operate with an aspect of the accelerated reviews, and therefore terminate the accelerated reviews in accordance with paragraph 269ZE(3)(a) of the Act.

1.3 Findings and conclusions

SPLCO has not provided a complete and adequate response to the exporter questionnaire by the due date, 21 November 2013. The exporter questionnaire requests

¹ A reference in this report to a provision of legislation, unless otherwise specified, is a reference to the Customs Act 1901.

² Subsection 269ZE(3)

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the provision of essential information that is relevant to the accelerated reviews lodged by SPLCO. The refusal to furnish a substantially compliant response to the exporter questionnaire amounts to a refusal to co-operate with an aspect of each of the accelerated reviews and it is recommended that the Commissioner terminate both accelerated reviews in accordance with paragraph 269ZE(3)(a).

2. INTRODUCTION

2.1 Accelerated review process

Division 6 of Part XVB of the Act deals with accelerated reviews of anti-dumping measures.

If anti-dumping measures have been taken in respect of certain goods, a new exporter, who has not exported the goods to Australia during the period specified in section 269T may request an accelerated review of those measures as they affect that particular exporter, if they consider the measures are not appropriate to that exporter.

If an application for an accelerated review of anti-dumping measures is received and not rejected, the Commission has up to 100 days to inquire and report to the Minister.

In making recommendations in its final report to the Minister, the Commission must consider the application and make such inquiries as considered appropriate.

The Commissioner may terminate a review if satisfied that the exporter is refusing to co-operate with any aspect of the review or the exporter is related to an exporter who was a selected exporter in relation to the application for publication of that notice³.

2.2 Existing measures

On 5 September 2012, dumping investigations into galvanised steel and aluminium zinc coated steel exported from China, the Republic of Korea (Korea) and Taiwan were initiated following applications lodged by BlueScope Steel Limited (BlueScope). In those investigations, as outlined in International Trade Remedies Branch Report 190 (REP 190),⁴ it was found that:

- galvanised steel exported from China, Korea and Taiwan to Australia was dumped with margins ranging from 2.6% to 62.9%;
- aluminium zinc coated steel exported from China and Korea to Australia was dumped with margins ranging from 5.5% to 19.3%;
- 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.

On 26 November 2012, countervailing investigations into galvanised steel and aluminium zinc coated steel exported from China were initiated following applications lodged by BlueScope. In those investigations, as outlined in International Trade Remedies Branch Report 193 (REP 193)⁵, it was found that:

³ Subsection 269ZE(3)

⁴ Due to the close nature of these products and common interested parties, findings from both dumping investigations were detailed in one report

⁵ Due to the close nature of these products and common interested parties, findings from both countervailing investigations were detailed in one report

- galvanised steel exported from China to Australia was subsidised with margins ranging from 5.2% to 22.8%;
- aluminium zinc coated steel exported from China to Australia was subsidised with margins ranging from 5.0% to 21.7%;
- the dumped and subsidised exports from China caused material injury to the Australian industry producing like goods; and
- continued dumping and subsidisation may cause further material injury to the Australian industry.

Accordingly, it was recommended that the Attorney-General impose anti-dumping measures (in the form of interim dumping duty (IDD) and interim countervailing duty (ICD)) on the goods exported from China, Korea and Taiwan.⁶ The Attorney-General accepted these recommendations and, on 5 August 2013, notice of the Attorney-General's decision was published in Anti-Dumping Notice No. 2013/66 (ADN 2013/66).

ADN 2013/66 outlines the details of the IDD applicable to galvanised steel and aluminium zinc coated steel exported to Australia from China, Korea and Taiwan, as well as the details of the ICD applicable to galvanised steel and aluminium zinc coated steel exported to Australia from China.

2.3 Notification and participation

On 29 September 2013, SPLCO, a new exporter of the goods, lodged an application for accelerated reviews of the dumping and countervailing duty notices⁷ applicable to galvanised steel and aluminium zinc coated steel exported to Australia from China.

The Commission examined the application and made the following findings concerning the request an accelerated review:

- The applicant did not export galvanised steel and aluminium zinc coated steel during the relevant period⁸. Thus the applicant met the definition of a new exporter and satisfied the requirements for requesting an accelerated review as stated at subsection 269ZE(1);
- The applicant did not refuse to cooperate in relation to the application for a dumping duty notice, and the application was not rejected under paragraph 269ZE(2)(a); and
- The applicant did not appear to be related to any selected exporters in the original investigation and the application was not rejected under paragraph 269ZE(2)(b).

The accelerated reviews of the measures commenced on the day the application was received. The period of 1 July 2012 to 30 June 2013 was set as the review period.

⁶ Only IDD is applicable to the goods from Korea and Taiwan (no ICD). Anti-dumping measures are not applicable to aluminium zinc coated steel from Taiwan. One Korean exporter is exempted from IDD, while certain Chinese exporters are exempted from ICD in relation to one or both of the products.

⁷ Section 269ZF

⁸ The relevant period is the beginning of the investigation period in relation to the original investigation and ends immediately before placement of the statement of essential facts on the public record.

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Public notification of initiation of the accelerated reviews was provided through the publication of ADN 2013/81 on 23 October 2013.

A public file for the accelerated review was opened and is available at <http://www.adcommission.gov.au/cases/EPR227228.asp>

The consideration report, non-confidential version of the application and this termination report are available on the public file.

2.4 Goods under review

The goods covered by the dumping and countervailing duty notices are galvanised steel and aluminium zinc coated steel.

(i) Zinc coated (galvanised) steel

The goods the subject of the galvanised steel anti-dumping measures are:

flat rolled products of iron and non-alloy steel of a width less than 600mm and, equal to or greater than 600mm, plated or coated with zinc.

Galvanised steel of any width is included.

The amount of zinc coating on the steel is described as its coating mass and is nominated in grams per meter squared (g/m²) with the prefix being Z (Zinc) or ZF (Zinc converted to a Zinc/Iron alloy coating). Common coating masses used for zinc coating are: Z350, Z275, Z200, Z100, and for zinc/iron alloy coating are: ZF100, ZF80 and ZF30 or equivalents based on international standards and naming conventions.

Product Treatment

The galvanised steel application covers galvanised steel whether or not including any (combination of) surface treatment, for instance; whether passivated or not passivated, (often referred to as chromated or unchromated), oiled or not oiled, skin passed or not skin passed, phosphated or not phosphated (for zinc iron alloy coated steel only).

Goods excluded from the measures

Painted galvanised steel, pre-painted galvanised steel and electro-galvanised plate steel are not covered.

(ii) Aluminium zinc coated steel

The goods the subject of the aluminium zinc coated steel anti-dumping measures 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.*

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The amount of aluminium zinc coating on the steel is described as its coating mass and is nominated in g/m² with the prefix being AZ (*Aluminium Zinc*). Common coating masses used are: AZ200, AZ150, AZ100, and AZ70.

Product treatment

The aluminium zinc coated steel application covers 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.

Goods excluded from the measures

Painted aluminium zinc coated steel and pre-painted aluminium zinc coated steel are not covered by the application and subsequent investigation.

Additional information to assist in understanding the goods is included in ACDN 2012/62 available at www.adcommission.gov.au.

The goods may be classified to the following subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

(i) Galvanised steel

7210.49.00	Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated: <i>Statistical code 55 - of a thickness of less than 0.5 mm</i> <i>Statistical code 56 - of a thickness of 0.5 mm or more but less than 1.5 mm</i> <i>Statistical code 57 - of a thickness of 1.5 mm or more but less than 2.5 mm</i> <i>Statistical Code 58 - of a thickness of 2.5 mm or more</i>
7212.30.00	Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, clad, plated or coated: Statistical Code 61 - otherwise plated or coated with zinc

(ii) Aluminium zinc coated steel

7210.61.00	Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated: Plated or coated with aluminium-zinc alloys <i>Statistical code 60 - of a thickness of less than 0.5 mm</i> <i>Statistical code 61 - of a thickness of 0.5 mm or more but less than 1.5 mm</i> <i>Statistical code 62 - of a thickness of 1.5 mm or more</i>
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A number of Tariff Concession Orders exist that may be relevant to galvanised steel (refer to Section 3.5.4 of the Commission's final report number 190 (REP 190).

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Additionally, several exemptions to measures have granted by the then Minister for Home Affairs, when publishing the original dumping duty and countervailing duty notices. Refer to REP 190 for further details.

3. TERMINATION GROUNDS

3.1 Findings

SPLCO was sent an exporter questionnaire with a due date of 21 November 2013 to submit its response to the Commission.

The Commission advised SPLCO at the time it forwarded the questionnaire that:

- if SPLCO did not provide all of the information sought, it may deem that SPLCO did not cooperate with the investigation; and
- the Commission had taken securities in respect of interim dumping duty and countervailing dumping duty that may be payable on SPLCO's exports of galvanised steel and aluminium zinc coated steel.

The Commission also requested SPLCO to provide a non-confidential copy of their questionnaire response for publication on the public record.

On 20 November 2013, SPLCO provided a response to the exporter questionnaire. The Commission assessed SPLCO's response and found that it did not provide all of the information sought. In particular:

- A non-confidential version of the response was not provided;
- Numerous questions of the exporter questionnaire were not completed, including all questions in relation to countervailing; and
- Certain financial appendices did not reconcile.

Given the scale of the deficiencies it was not considered feasible for SPLCO to remedy the deficiencies with sufficient time to allow the accelerated reviews to be completed within legislative timeframes.

The Commission considers that the lack of a substantially compliant response to the questionnaire amounts to a refusal to co-operate with an aspect of the accelerated reviews and therefore provides grounds to terminate the accelerated reviews in accordance with paragraph 269ZE(3)(a).

4. EFFECT OF THE TERMINATION

As a result of this termination, SPLCO's exports of galvanised steel and aluminium zinc coated steel will remain subject to the 'all other exporters' anti-dumping duty and countervailing duty rates for China in accordance with the dumping and countervailing duty notice published on 5 August 2013. The effect of the termination of the accelerated reviews was communicated to SPLCO. Securities were imposed by the delegate on 23 October 2013 on exports by SPLCO while the accelerated reviews proceeded.

In accordance with section 269ZH of the Act, if SPLCO has exports of galvanised steel and aluminium zinc coated steel that were subject to securities (i.e. galvanised steel and aluminium zinc coated steel exported by SPLCO that were imported and entered for home consumption in Australia between 23 October 2013 and 20 December 2013) these securities will now be converted to IDD and ICD at the rate applicable to 'all other exporters' from China. Future exports of galvanised steel and aluminium zinc coated steel will also be subject to this level of duty.

The Commission advised SPLCO that this termination does not affect SPLCO's right to apply for another accelerated review in accordance with section 269ZF of the Act.

5. RECOMMENDATIONS

It is recommended that the Commissioner be satisfied that SPLCO refused to co-operate with an aspect of each accelerated review by failing to provide adequate information and therefore in accordance with subsection 269ZE(3) of the Act, decide to terminate the accelerated reviews.