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15 October 2012

The Director  
 Operations 2  
 International Trade Remedies Branch  
 Australian Customs and Border Protection Service  
 Customs House  
 5 Constitution Avenue  
 CANBERRA ACT 2601

Our ref: ATH  
 Matter no: 9555549

By email: [itrops2@customs.gov.au](mailto:itrops2@customs.gov.au)

Dear Director

**Zinc Coated (Galvanised) Steel and Aluminium Zinc Coated Steel exported from the People's Republic of China, the Republic of Korea and Taiwan**  
**Initiation of an investigation into alleged dumping**  
**Submission by GM Holden Limited**  
**Non-confidential version**

We act on behalf of GM Holden Limited ("**Holden**") and have been instructed by Holden to make the following submission to the Australian Customs and Border Protection Service ("**Customs**") in relation to the investigation referred to in Australian Customs Dumping Notice No. 2012/40 ("**ACDN**").

Please note that this is the **non-confidential** version of this Submission. A **confidential** version has also been provided.

# 1. Definitions

For the purposes of this Submission, the following definitions have been adopted.

- (a) "**ABS**" means the Australian Bureau of Statistics.
- (b) "**ACDN**" means Australian Customs Dumping Notice No. 2012/40 in relation to the Application.
- (c) "**Act**" means the *Customs Act 1901* (Cth).
- (d) "**Application**" means the applications for dumping duty notices in relation to AZCS and Galvanised Steel exported from the PRC, the Republic of Korea and Taiwan made by BSL on behalf of the Australian Industry as referred to in the ACDN and dated August 2012.
- (e) "**Australian Industry**" has the same meaning as in the Application and in the Consideration Report.
- (f) "**AZCS**" means aluminium zinc coated steel.

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INTERLAW.

- (g) [REDACTED] [company name]
- (h) **"BSL"** or **"Applicant"** means BlueScope Steel Limited being the applicant for the measures.
- (i) **"CIF"** means CIF according to INCOTERMS.
- (j) **"Consideration Report"** means Report number 190 issued by Customs in response to the Application.
- (k) **"Customs"** means the Australian Customs and Border Protection Service.
- (l) **"EXW"** means Ex Works according to INCOTERMS.
- (m) **"FCA"** means FCA according to INCOTERMS.
- (n) **"FIS"** means delivered free into store.
- (o) **"Galvanised Steel"** means zinc coated (galvanised) steel referred to in the Application and the Consideration Report.
- (p) **"GFC"** means the Global Financial Crisis.
- (q) **"GM"** means General Motors.
- (r) **"GUC"** means goods under consideration as described in the Application.
- (s) **"HVO"** means Holden's Vehicle Operations.
- (t) **"HRCS"** means Hot Rolled Coil Steel as described in the HRCS Investigation.
- (u) **"HRCS Investigation"** means Investigation number 188 by Customs into alleged dumping of HRCS exported from Japan, the Republic of Korea, Malaysia and Taiwan.
- (v) **"HRCS SEF"** means Statement of Essential Facts number 188 issued by Customs in the HRCS Investigation.
- (w) **"HRCS"** means Hot Rolled Coil Steel as described in the Application and the Consideration Report.
- (x) **"HSS"** means certain hollow steel sections as described in the HSS Investigation.
- (y) **"HSS Investigation"** means Investigation number 177 by Customs into alleged dumping of HSS exported from the PRC, Korea, Malaysia, Taiwan and the Kingdom of Thailand.
- (z) **"HSS Report"** means Customs Report number 177 to the Minister in relation to the HSS Investigation.
- (aa) **"INCOTERMS"** (International Commercial Terms) means the standard accepted commonly used trade terms and conditions utilised in international trade as published by the International Chamber of Commerce and entitled "INCOTERMS 2000"

- (bb) **"Investigation"** means the investigation by Customs in response to the Application being investigation 190A relating to Galvanised Steel and investigation 190B relating to AZCS.
- (cc) **"ISSB"** means ISSB Limited.
- (dd) **"Korea"** means the Republic of Korea.
- (ee) [REDACTED] [company name]
- (ff) **"Material Injury Direction"** means the ministerial direction on material injury dated 1 June 2012 published in Australian Customs Dumping Notice No. 2012/24.
- (gg) **"Minister"** means the Minister for Home Affairs.
- (hh) **"OEM"** means Original Equipment Manufacturer.
- (ii) [REDACTED] [company name]
- (jj) **"PRC"** means the People's Republic of China.
- (kk) **"Public File"** means the public file maintained by Customs in relation to the Investigation.
- (ll) **"SSB"** means Steel Business Briefing.
- (mm) **"World Benchmark"** means the world benchmark prices for Galvanised Steel provided by Metal Bulletin Ltd.

## 2. Holden

As stated above, we act on behalf of Holden.

### 2.1 *The business of Holden*

The history of Holden dates back to 1856 when it started as a saddlery business in South Australia. Today Holden is one of only nine fully-integrated global GM operations that designs, builds and sells vehicles and engines for Australia and the world.

Holden has its headquarters in Port Melbourne, with an engine manufacturing plant on-site and vehicle manufacturing operations in Adelaide South Australia and it is represented by approximately 250 dealerships nationwide.

HVO produce 51 models from two architectures, from six vehicle body styles for domestic and export customers. For the Australian market, the facility produces the Commodore range of sedans, sportswagons and utes together with Caprice and Caprice V long-wheel base luxury vehicles and the Cruze global small sedan and hatch, which went into production in 2011.

HVO includes a press plant and metal assembly operation, body hardware facility, paint shop, plastics operation, body assembly and vehicle assembly operations. The beginning of local production of the Cruze has also helped grow Holden's expertise in small vehicle engineering and manufacturing.

Holden's Global V6 Engine plant is located in Port Melbourne, Victoria. The state-of-the-art facility gives Holden considerable flexibility in the range of engines it can produce for local and international customers including: 2.8, 3.0, 3.2 and 3.6 litre variants.

Holden is responsible for design, vehicle and powertrain engineering for its locally made vehicles and also performs work for global GM programs. Holden is one of GM's nine global design centres and is responsible for vehicles such as the Holden Commodore and Chevrolet Camaro.

## **2.2 Interest of Holden**

At the outset, we are instructed that the Submission only relates to the interest of Holden as an importer and purchaser of Galvanised Steel from [REDACTED] [company names] for use in the automotive trade as an OEM of motor vehicles. Our client has no other comment in relation to other aspects of the Investigation.

## **2.3 Potential effect of the application of measures on Holden**

It is important to note that our client is neither a distributor nor retailer of Galvanised Steel which purchases Galvanised Steel to meet perceived consumer demand. Rather, our client is a significant Australian OEM of motor vehicles and the purchase of Galvanised Steel forms a vital element of that manufacture. The following information is relevant.

- (a) Preliminary decisions on production and the purchase of all components (including Galvanised Steel) are taken around 2 years before production commences following research and development and design of all components needed for production.
- (b) Final decisions as to the sourcing and purchase of components such as the Galvanised Steel are based on price, the ability to meet demand and quality.
- (c) Pricing for components is set significantly in advance of delivery.
- (d) In terms of Galvanised Steel, prices are based on prices driven by global supply and demand.
- (e) All prices are set for a 6 month period and therefore not subject to response to specific dumping prices (if any).
- (f) Customs should be aware that any decision to change suppliers takes approximately a 2 year period.

The arrangements described above are set in place well in advance of the production and delivery of the Galvanised Steel. In the majority of instances, the commissioning and ordering takes place 2 years prior to delivery. Accordingly, the potential application of anti-dumping duties would represent a significant commercial disadvantage for our client. Holden would have no ability to pass on those additional duties and the costs of monitoring and paying those duties. In particular, the imposition of interim measures at any stage prior to Customs' final report when Customs itself acknowledges there is significant, considerable, additional investigation and research to be undertaken would cause substantial financial disadvantage to our client. Even if interim measures were

revoked on a final determination, the administrative difficulties and the financial cost of ultimately recovering any duties paid would represent a considerable financial burden. The refund of duties or other measures would not relieve that financial burden.

#### **2.4 Holden purchase of Galvanised Steel**

In the course of its business, Holden has purchased Galvanised Steel both from [REDACTED] [company names].

For these purposes, our client can identify that it has purchased Galvanised Steel from these companies. At the Verification Visit to be undertaken by Customs at our client, our client will provide details of quantities of Galvanised Steel purchased from the companies in the period under consideration together with indicative supply agreements. Our client would also be pleased to provide additional information and answer questions during a Verification Visit from Customs.

As a result, our client is of the view that it is well positioned to make this Submission and provide useful observations regarding the Application and the facts relevant to the Application.

#### **3. An Interested Party**

Based on the comments above, we are of the view that our client Holden is an "Interested Party" for the purposes of the Act and is entitled to make the Submission. This conclusion appears to be consistent with the approach taken by Customs and the request by Customs for information from our client.

#### **4. GUC and extent of Investigation**

Holden has the following reservations regarding this issue.

- (a) Once again, Holden is of the view that Customs has accepted a description of "GUC" which is entirely too broad. In the recent HRCS SEF, Customs has identified an absence of injury to the applicant in the automotive market. However, due to legislative provisions, Customs believes it is unable to terminate the Investigation in relation to specific goods from the specific exporter. This could lead to dumping duties being imposed on HRCS which is sold to the automotive industry even though there is no injury in that industry. We believe that this will also arise in this case and that Customs should not have accepted such a broad description of GUC.
- (b) Customs has invited parties to provide details of goods which the Minister may exempt from any measures. In this case, Holden advises that certain "tailor welded" Galvanised Steel is not produced by the Applicant and there are no facilities available in Australia for producing those goods. Furthermore, there is no capacity for otherwise taking plain steel and welding in the manner required. For these purposes, our client believes those goods should be excluded from the Investigation.
- (c) Even though the Applicant has brought two applications (one in relation to AZCS and one in relation to Galvanised Steel), in the Consideration Report, Customs has considered the Applications separately and then also made conclusions for "both goods" in many instances. Section 3.1.1 of the Consideration Report suggests that while there are to be separate investigations for AZCS and Galvanised Steel, that may vary over time (presumably to combine the investigations). Holden is particularly concerned that Customs should not make final determinations as to alleged dumping

and injury and impose measures based on findings for "both goods". Holden reiterates that there are two applications and that any measures in relation to Galvanised Steel should be based on information provided and investigations undertaken in relation to Galvanised Steel only. Imposing measures on Galvanised Steel because of alleged dumping across AZCS and Galvanised Steel when the goods are taken together is entirely inappropriate.

## 5. Provision of other information

We note that Holden has also already provided completed Importer Questionnaires parts A and B and submitted those to Customs.

## 6. General approach of Holden to the Application

Subject to the specific comments in paragraph 8 below, our client rejects the submission by the Applicant that the Australian Industry has suffered material injury from exports of Galvanised Steel having been sold at artificially low prices through dumping practices in the automotive industry which are contrary to the Act.

On this basis, our client does not support the imposition of anti-dumping measures such as those requested by the Applicant and as contemplated by the Consideration Report.

## 7. Concern as to data provided by the Applicant

### (a) *BSL's data source*

It is noted that BSL was unable to obtain data from the ABS due to suppression orders that restrict the availability of ABS import clearance data. Accordingly, BSL resorted to securing data from ISSB.

BSL alleges that ISSB *"is a reputable European agency that specialises in the supply of import and export trade data"*. However, it is noted that ISSB is not a government agency like the ABS. Rather, ISSB is a corporation that provides reports on trade statistics to companies or individuals for a fee.

There are a number of issues with the use of data from ISSB:

- (1) it is not clear where or how ISSB obtains its data. As it is not a government agency, its ability to obtain the relevant data should be questioned. This fact creates a level of uncertainty surrounding the accuracy of ISSB's statistics;
- (2) ISSB provided export data from the nominated countries as opposed to import clearance data. BSL recognises that this produces a variance in results, however it alleges that it would only be a slight difference to Australian import clearance data that would be due to timing differences. However, we believe that this assertion should not be relied upon by Customs and that any information regarding imports of the Galvanised Steel to Australia and the prices for those imports should only be based on actual, verified data;
- (3) we have not been provided with the terms of reference under which ISSB provided its report to BSL. The terms of reference could affect the nature, scope and relevance of the information provided by ISSB;

- (4) the ISSB data has not been provided in its entirety;
- (5) a non-confidential version of the ISSB data has not been provided;
- (6) the Applicant has not provided the basis on which ISSB was instructed to provide its report;
- (7) there are other proprietary providers of such information; and
- (8) Customs will be securing "real" and verified information on normal value export price and dumping margins from various exporters and importers.

Further, it should be noted that there are other providers of data such as SBB and World Benchmark whose data may deliver different results.

It is clear from the Consideration Report that Customs also has reservations as to the validity of the statistics from ISSB. The Consideration Report states that Customs tested the data provided by ISSB by comparing it with its own data. Customs found that the data contained in BSL's application showed **similar** import volumes to their own data. Customs then goes on to state that a more accurate assessment of import volumes would need to be conducted.

(b) ***Alleged confidentiality of BSL's data source***

In order to obtain the statistics from ISSB, it is clear that it would have been necessary for BSL to pay a fee to ISSB, which sells monthly and annual publications regarding world and country steel statistics and also produces "custom" reports. As such, ISSB statistics are available to any interested party should they pay the required fee.

It is noted that Customs *may* treat information relevant to the industry that has been purchased from a third party as confidential. In these circumstances, it is argued that the information BSL obtained from ISSB should be treated as non-confidential for the following reasons:

- (1) any party could obtain the same statistics from ISSB for a fee;
- (2) the statistics from ISSB are generalised data. The data is not specific to certain companies and no issues of confidentiality arise;
- (3) if the statistics were available from the ABS, all interested parties would have access to the statistics; and
- (4) in the interests of fairness, all interested parties should have access to the ISSB statistics in order to conduct their own assessment as to the validity of the statistics.

Accordingly, it is requested that all interested parties be provided with a copy of the statistics BSL obtained from ISSB.

(c) ***Inadequate non-confidential version of BSL's data source***

Without prejudice to the comments in the preceding paragraph regarding the production of the ISSB report sourced by BSL, Holden is also of the view that

BSL has failed to provide an adequate "non-confidential" version of the material from ISSB to enable it to promptly review that information and make this Submission.

## 8. **Commentary on specific aspects of the Consideration Report**

Please see the comments below in relation to sections of the Consideration Report. References to sections are sections in the Consideration Report.

### 8.1 **Section 4.2.3(i)**

Holden agrees that Customs needs to undertake further analysis of the relevant tariff classifications and Tariff Concession Orders which might apply in relation to the GUC.

### 8.2 **Section 4.3.1(ii)**

We note that the Consideration Report refers to the earlier HRCS Investigation and its importance given that the HRCS is the "major raw feed material" for Galvanised Steel.

We also note that Customs has now issued the HRCS SEF which was contemplated by the Consideration Report. Importantly, Holden notes that the HRCS SEF has found that there is no evidence of injury to the Applicant in relation to its supply of HRCS to the automotive industry and that injury in relation to the automotive sector for HRCS is likely to have been caused by reduction in the Australian market for locally manufactured vehicles and not due to any dumping. It is the position of Holden that a similar conclusion applies in respect of the alleged dumping of Galvanised Steel for use in the OEM market for automotive vehicles. For these purposes, our client will provide at the Verification Visit details of the reduction in demand for automotive vehicles produced by our client which, Holden believes, better explains the alleged injury claimed by the Applicant and is consistent to the findings in the HRCS SEF.

### 8.3 **Section 6.5**

According to section 6.5 of the Consideration Report, BSL identifies three market sectors to which Galvanised Steel products are supplied, which are as follows:

- (a) the building and construction industry;
- (b) the automotive and transport primary markets; and
- (c) the general manufacturing market.

We note that Customs contends that it is appropriate to consider the three separate markets together. The Consideration Report states that it is clear that both the Australian Industry and importers of Galvanised Steel products compete across each market segment in Australia via the same distribution channels.

Galvanised Steel is sold through three very distinct and different market sectors which all have very different considerations when it comes to issues of pricing and material injury. For example, Holden only purchases Galvanised Steel for the automotive industry. Holden believes that the main focus of the Galvanised Steel industry and the Application is on the other sectors described in paragraphs 8.3(a) and (c) above and is seeking the imposition of measures in those sectors. Further, we note that in the Application, (for example), BSL provides examples of circumstances in which it has suffered "material injury" in different segments of the market for Galvanised Steel. This



suggests that there is no one consistent approach to the market for the use of the Galvanised Steel in Australia. Accordingly, Holden is of the view that there should be three separate market assessments as to material injury for the Australian Industry. Such assessments will produce a more accurate reflection of the effect of any alleged dumping of Galvanised Steel (which is denied).

For these purposes, Holden notes that in the HRCS SEF Customs identified that it was unable to separately recommend the termination of measures in relation to the automotive industry itself due to the nature of its legislation. Accordingly, we would strongly recommend that Customs adopt a separate approach to the Application which would allow it to separately terminate an investigation in relation to exports of Galvanised Steel in relation to the automotive market.

#### 8.4 **Section 6.5.2(iii)**

The Applicant has identified a variety of factors that influence demand variability for Galvanised Steel within the Australian market. However, the Applicant does not appear to have undertaken a sensitivity analysis which would indicate how those factors have affected demand for the goods and suppressed demand, prices or employment (as opposed to such factors having been caused by alleged dumping). Holden would encourage Customs to do a proper analysis which identifies and takes into account these factors as they affect the business of BSL.

#### 8.5 **Section 6.5.3(ii)**

BSL has provided some imprecise details of the source of Galvanised Steel sales. It has indicated that "approximately one-third" of total Galvanised Steel sales are made directly to the domestic building product manufacturing industry and that the "balance of sales" are made "to either the local distribution market or direct to the general manufacturing and auto industries including auto component manufacturers, pipe and tube manufacturers and racking manufacturers". Holden is of the view that such claims are entirely too imprecise and that a proper analysis of the source of sales into each of those sectors is required to properly ensure that measures are imposed where appropriate (if any).

#### 8.6 **Section 6.5.4(i)**

BSL has appeared to have made claims that certain "inter-materials are also substitutable for Galvanised Steel depending on product and use". However, in the view of Holden, aluminium, plastics or advanced composites are not substitutable for Galvanised Steel for its automotive applications by Holden. This is indicative of a lack of understanding of the industry by BSL.

#### 8.7 **Section 6.5.5.2**

Customs has indicated that in the absence of detailed import information Customs' own data provides a "reasonable estimation of import volumes". At different times, Customs and BSL have resorted to "extrapolated" figures to make determinations. However, as Customs has indicated, during the Investigation it will undertake a more detailed analysis of market size and for these purposes Holden would encourage Customs to undertake an exhaustive and comprehensive examination of all imports of Galvanised Steel to properly determine the size of the market. Holden would welcome the opportunity to review Customs' investigations and also review the final graph based on that information when it is updated at section 6.5.5.2(i) (Figure 3).

**8.8 Section 7.3.1**

Holden believes that the BSL calculated monthly and quarterly FOB prices and export volumes for Galvanised Steel exported from China and Korea for 2011/12 to be entirely incorrect. Based on information held by Holden's purchases from China and Korea, our client will provide at the Verification Visit a revised version of the table setting out actual figures for Galvanised Steel paid by Holden for the corresponding periods as shown in Figure 5 under section 7.3.1.

**8.9 Section 7.3.2**

Holden is concerned that Customs appears to have accepted some imprecise figures and significant variations in electing to proceed with the Application. For example, under section 7.3.2 Customs says that it found "considerable variation in monthly volumes although annually the volumes vary within 10%". Although Customs considered that this could be largely attributed to timing differences, Holden is of the view that such differences are, in fact, significant and not "reasonable" as set out in the second last line of section 7.3.2.

**8.10 Section 7.4.1**

This section is largely given over to claims by BSL that there is a "particular market situation" in China for both products and that, as a result, prices in the PRC market should not be accepted for determining normal value and that constructed prices should be adopted as provided for in the Act. However, in doing so, BSL has drawn heavily on findings by Customs in the HSS Investigation. BSL also makes a variety of other assertions regarding the presence of a particular market situation for Galvanised Steel in the PRC. However, for these purposes, Holden will make the following observations.

- (a) Customs should not merely assume that the factors relating to a particular market situation for HSS as set out in the HSS Investigation apply equally to Galvanised Steel.
- (b) There should be a proper assessment as to any alleged particular market situation in either of the AZCS or Galvanised Steel markets.
- (c) On page 36 of the Consideration Report, BSL claims that export restrictions on coke contributes to lower costs for imports for steel making (including Galvanised Steel) resulting in lower selling prices for the identified products. However, there appears to be no detailed analysis of how this takes place.
- (d) At the paragraph at the top of page 37, BSL points to comments in annual reports for Bao Steel for the years 2006, 2008 and 2010 that it had "commented on compliance with the GOC's policies for the iron and steel industry". With respect, Holden believes that Bao Steel would have been required to have included such a statement in its annual report and the absence of such a statement would have been the cause for considerable concern. It is the view of Holden that the mere statement that Bao Steel complies with the GOC's policies for the iron and steel industry does not translate into there being a particular market situation.
- (e) In the third last paragraph on page 37, Customs has indicated that it is:

*"reasonable to assume that HRC producers that supplied HRC to HSS manufacturers at prices that were below adequate remuneration might also supply HRC to aluminium zinc coated steel and galvanised steel producers assuming that these producers are not integrated. Customs and Border Protection considers that if the producers of the goods are integrated producers and also produce HRC the HRC production costs and transfer prices would be influenced by GOC policies and by implementation measures".*

Holden has a number of concerns regarding this statement.

- (1) Customs is adopting a number of "assumptions" which Holden does not believe to be reasonable.
- (2) Neither BSL nor Customs has indicated what is or is not an "integrated producer".

Holden would urge Customs to undertake proper detailed analysis as to these issues in its Investigation.

#### 8.11 **Section 7.4.1.2**

- (a) We note that BSL has constructed normal values for the most common grade of Galvanised Steel at page 38 of the Consideration Report. Holden believes that normal values should be constructed for other grades of Galvanised Steel.
- (b) Holden again questions the assumptions as to the integration of producers at the top of page 39 as a reasonable basis on which Customs should proceed.
- (c) In the 5th paragraph on page 39, Customs refers to information and data provided by BSL from independent external sources which is considered to be commercial-in-confidence by BSL. As set out above, Holden does not believe that this should be considered to be confidential of the type which should be precluded from review and release to interested parties.

#### 8.12 **Section 7.6(i)**

Holden has a number of concerns regarding the estimated normal values and dumping margins set out in this section. For example:

- (a) At the Verification Visit, Holden will provide a revised table for that at Figure 7 in relation to normal values for Galvanised Steel it has purchased which it has calculated in relation to PRC and Korea.
- (b) We note that BSL has calculated dumping margins which are significantly above those estimated by Customs (comparing the figures in the table in Figure 8 and Figure 9 on page 49). However, there is no explanation provided as to the basis on which either party has calculated its dumping margins which makes this difficult to be reviewed.

#### 8.13 **Section 8.7.2(i)**

The graph in this section (Figure 14) is merely based on diagrammatic representation of alleged sales. There are no actual figures involved and accordingly Holden is concerned that the graphs could be misleading in the absence of actual numbers.

**8.14 Section 8.9(i)**

While the Table in this section (Figure 21) appears to show a significant reduction in profitability, there are no specific dollar figures associated with the loss of profitability and, as set out below, there are significant other potential reasons for that loss of profit and profitability.

**8.15 Section 8.11.1(i)**

Customs believes it has identified a downward trend in the value of assets used in the production of Galvanised Steel from 2008-09. It is the view of Holden that this could be the cause of normal depreciation or write-offs in the course of the conduct of a business. Those amounts should be separately considered.

**8.16 Section 8.11.1.5(i)**

The revenue changes appear to be consistent to changes in market demand driven by factors other than dumping. However, Holden believes that Customs should adopt and provide proper details of its analysis of revenues rather than that which has been provided in the Consideration Report.

**8.17 Section 8.11.2(i)**

While Customs has pointed to a number of factors in this section indicating injury, no details have been provided of quantum nor a separate assessment as to the effect of the closure of BSL's metal coating line when that would have been available to Customs arising from the HRCS Investigation.

**8.18 Section 9.2.1(i) and (ii)**

It is the view of Holden that it is not enough for Customs to merely look at an increase in volume of imports from China and Korea as contributing to a reduction of sales for BSL during various years. Customs need to analyse the reasons for the reduction in BSL's sales and whether it is caused by factors other than the alleged dumping. In doing so, Holden would encourage Customs to review the effect in the different market segments identified above.

**8.19 Section 9.2.2(i)**

We note that BSL claims to have provided a number of "import offers" which supported a finding of price undercutting which have been accepted by Customs. However, they have only been provided on a confidential basis and it is unreasonable and inequitable for Holden to have to respond claims of this type without provision of proper information for further investigation.

**8.20 Section 9.2.3**

In this section, BSL has claimed that its costs to make and sell increased by approximately 10% in 2011-12 but the average selling prices for Galvanised Steel decreased by 6%. However, neither BSL nor Customs appears to have undertaken a proper analysis as to the reasons for the increase in cost or the decrease in prices.

**8.21 Section 9.2.4(ii)**

Holden agrees that the impact of other economic/injury factors of dumped goods warrants further investigation and independent investigation rather than relying on any injury analysis in the HRCS Investigation or the HSS Investigation.

**8.22 Section 9.3**

As previously stated, BSL is of the view that there may well be other causes leading to material injury to BSL during the relevant period and that any such assessment must be made on an industry basis.

**8.23 Section 9.4**

We are of the view that:

- (a) Customs should undertake a proper sensitivity analysis of the impact of the appreciating Australian dollar on the dumping of the nominated exporting countries; and
- (b) neither Holden nor Customs has given any consideration of changes to the market for the end product using Galvanised Steel. It is the view of Holden that decreases in demand for the end product using the Galvanised Steel (in the case of Holden the automotive vehicles) which is the real cause of material injury in relation to imports by our client.

**8.24 Section 9.4(ii)**

Holden disagrees with the use of the individual cumulative market volumes as a means to identify dumping.

**8.25 Section 9.5(i)**

Again, Holden reiterates its request for access to the basis on which Customs has analysed its "non-injurious price".

**8.26 Section 9.6(i)**

Holden looks forward to receipt of further analysis by Customs regarding other potential causes of injury to the market.

**8.27 Calculation of export price, normal value and dumping margins**

We note that many of the claims on export value, normal value and dumping margins in the Application are allegedly based on information provided by ISSB.

Accordingly, we believe that Customs should not proceed based on the material contained in the ISSB report provided by BSL alone.

**8.28 Material injury**

(a) **Compliance with the Ministerial Direction**

It is the view of Holden that the type of material injury claimed by BSL does not represent the type of material injury for an Australian industry which would support the imposition of measures whether pursuant to the Act or in accordance with the Ministerial Direction. In particular, we note that the

Minister has directed that a loss of market share should be considered with a range of relevant injury indicators before material injury may be established. In the view of Holden, there are a number of other relevant factors which have led to the loss of market share BSL has experienced in the year 2010/11 including, without limitation, the GFC, the factors set out in section 6.5.2(iii) of the Consideration Report, the decrease in demand for the end product using the Galvanised Steel and appreciation of the Australian dollar, increase in price for electricity and raw material prices, increases in iron ore and coal coking prices and a general reduction in demand for the entire steel industry. It is the submission of Holden that it is the combination of those factors which is the cause of material injury to BSL for the one year period rather than any alleged dumping of Galvanised Steel.

(b) ***General allegations of injury***

BSL alleges that it has suffered material injury due to the dumping of Galvanised Steel products as follows:

- (1) loss of sales volume;
- (2) reduced market share;
- (3) reduced revenues;
- (4) price undercutting;
- (5) price depression;
- (6) price suppression;
- (7) reduced profits;
- (8) reduced profitability;
- (9) reduced return on investment;
- (10) reduced ability to raise capital for re-investment; and
- (11) reduced employment.

(c) ***Other causes***

As described above, Holden is of the view that there are a variety of other causes which have contributed to any alleged material injury on behalf of BSL in its purchases of Galvanised Steel. Without limitation, these include the following:

- (1) the decrease in demand for automotive vehicles as the end product using the imported Galvanised Steel;
- (2) post GFC re-structuring in the BSL business and associated costs;
- (3) the appreciation of the Australian dollar;
- (4) costs associated with the close of the BSL Westernport Plant;

- (5) loss of export markets by BSL;
- (6) increase in prices for raw materials;
- (7) other decrease in general demand in the Australian market for Galvanised Steel; and
- (8) increase in price for electricity and coking coal.

It is the view of Holden that each of these potential other causes needs to be carefully and thoroughly considered by Customs rather than merely accepting that the alleged one year financial loss by BSL represents sufficient evidence of material injury to warrant imposition of measures.

Holden is of the view that a proper consideration of these alternative causes for material injury in relation to the Galvanised Steel (for the one year period) will indicate that a number of previous decisions made by BSL arising from the GFC were the main cause of any alleged injury, not any alleged dumped sales.

Finally, it is also important for Customs to appreciate that Holden has purchased Galvanised Steel based on examination as to quality of the production and the price over a 2 year period. This would support the proposition that prices are not the sole determinant of decisions from whom to acquire Galvanised Steel.

(d) ***Choice of import parity procedures***

We note that BSL has indicated in many places in its Application that it has undertaken pricing based on an "import parity" approach. It is the view of Holden that the adoption of such an approach does expose BSL to both increases in price and decreases in price depending on the international market for Galvanised Steel and that it is the election to adopt that approach which is the commercial decision which has caused most of the injury for BSL.

**9. Application of interim measures**

In a number of our comments above we have referred to the fact that Customs' Investigation is at a very early stage and that there are a number of significant differences between the parties about which further information is required. Some these are set out below.

- (a) Customs has not had the opportunity to review all the source data provided by BSL and has expressed reservations regarding that information.
- (b) Customs has not had the opportunity to source direct verified data in relation to exports and imports of Galvanised Steel.
- (c) Customs has not had the benefit of review of material from our client or from other Australian importers.
- (d) The fact that the Australian market appears to have recovered and stabilised since the GFC suggesting no need for interim measures.
- (e) The fact that there are other reasons for alleged material injury (even if injury is found to have existed).

Accordingly, our client strongly believes there is no basis on which Customs should impose interim measures of any type. Any measures should wait until a full determination of all aspects of the Application, which can only be made after our client (and others) has had the full opportunity to respond.

**10. Further submissions based on verified data**

We note that this Submission is made at short notice and without the benefit of time to undertake a detailed and comprehensive analysis of the Application and associated provisions based on real and verified data and related information.

Accordingly, our client would be pleased to be afforded the opportunity to provide further additional information and to make further submissions to Customs, as Customs sees fit. In our view, our client should be afforded the opportunity of making additional enquiries and further submissions before Customs makes any determinations or decisions which would involve the imposition of measures (whether interim or otherwise).

Please note that this Submission is made without prejudice to any other submissions or commentary which our client might make and without prejudice to any arguments which our client may seek to make in any applications for review of any type.

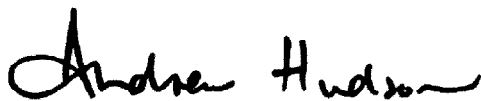
**11. Conclusion and recommendation**

As discussed above, our client does not support the Application and believes that the Australian Industry has not suffered material injury in the automotive sector due to the existence of alleged dumping practices that have benefited exporters referred to in the Application.

Our client is concerned to ensure that a viable Australian automotive manufacturing industry is allowed to exist in which all parties adopt fair practices. That outcome is not supported by the application of any dumping or countervailing measures in this matter.

In our view, given the complexities of the facts and issues associated with the Investigation, together with the fact that there is an absence of direct and verified data regarding the allegations by BSL, the interests of all parties would best be served by Customs creating "Issues Papers" on the issues at hand (especially like goods, normal value, export price and material injury) and seeking commentary from the parties before advancing the Investigation and before even considering the imposition of any dumping or countervailing measures.

Yours faithfully  
**Hunt & Hunt**



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