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17 April 2018

Mr R Piper  
Director  
Anti-Dumping Commission  
Operations 1  
55 Collins Street  
Melbourne  
Victoria 3000

By email

Dear Director

## **Dongbu Steel Co., Ltd Continuation inquiry concerning zinc coated (galvanised) steel**

As you know, we represent Dongbu Steel Co., Ltd (“Dongbu”) in this matter.

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## A Introduction

The application for this continuation inquiry (“the Application”) attempts to establish a narrative to support the proposition that the measures should continue beyond their five years of operation. Such continuation should not occur as a matter of course, rather, only in extraordinary circumstances. As a matter of law, the Commissioner can only recommend the continuation of measures where he is satisfied that:

*...the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.<sup>1</sup>*

From this we note:

- The “anti-dumping measures” referred to here is the “publication of a dumping duty notice”, being a notice published by the Minister under subsection 269TG(1) or (2).<sup>2</sup>
- The “injury”, therefore, is the injury caused by dumping that required the publication of the Section 269TG(1) and (2) notices in the first place, being material injury caused by dumping from the subject exporters.
- It has been established that it is not sufficient that a recurrence or continuation of injury be possible or plausible but, rather, such an outcome needs to be probable.<sup>3</sup>
- Any decision to continue the measures must be demonstrable on the basis of positive evidence.<sup>4</sup>

One implication of this is that injury caused by any other factors – injury that in an original investigation *must not be attributed* to the goods subject to the investigation under Section 269TAE(2A) – cannot be a motivating factor for the continuation of the measures. This is for the simple fact that such injury cannot be used to justify the imposition of measures in the first place, and therefore cannot be a basis for considering that there is a need to continue the measures.

The narrative in Application lodged by BlueScope Steel Limited (“BSL”) confuses this – focussing on broad trends that are relevant to the global market rather than specific factors relevant to the goods subject to measures. Indeed, the Application does not even reflect the fact that there are currently large volumes of the goods available in the Australian market from exporters that are not subject to the measures.

In this submission, Dongbu will address the following points:

- Dongbu’s history of exports to Australia;
- export volumes to Australia;
- the impact and relevance of other dumping investigations;
- BSL’s sales volumes since the measures were introduced; and

<sup>1</sup> See Section 269ZHF(2) of the *Customs Act 1901* (“the Act”).

<sup>2</sup> See Section 269T of the Act.

<sup>3</sup> See *US – Sunset Review of Anti-Dumping Duties on Corrosion Resistant Carbon Steel Flat Products from Japan* (WT/DS244/AB/R), at para 111.

<sup>4</sup> See *United States — Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMs) of One Megabit or Above from Korea* (WT/DS99/R); at para 6.42.

- BSL's pricing practices.

## B Dongbu's history of exports to Australia

The Application spends a significant portion of time discussing variable factors reviews and communicates a degree of cynicism and suspicion regarding exporters who have availed themselves of their legal right to have their variable factors reviewed. BSL's concerns in this regard are well documented, having formed the basis of a number of Anti-Dumping Review Panel ("ADRP") appeals, including an appeal of the decision arising out of Dongbu's most recent variable factors review. That concern appears to be:

*The forgoing highlights that where variable factors are reviewed and exporters are able to achieve 'zero' margins of dumping based upon a period with no exports to Australia and, where the variable factors reflect levels substantially below contemporary levels, then in the event the anti-dumping measures are allowed to expire, it is unquestionable that exporters will again dump in the Australian market and cause further material injury to the Australian industry manufacturing like goods.<sup>5</sup>*

Dongbu completely and unambiguously rejects the proposition that it acted improperly when exercising its legal right to seek variable factor reviews. The proposition that an exporter would forgo making profitable exports for twelve months in order to apply for a variable factors review with the ultimate goal being to dump on the Australian market belies all logic.<sup>6</sup> Dongbu cannot speak for other exporters, but in its case it would point out the following:

- Dongbu's initial review (covering the period 1 October 2013 – 30 September 2014) found that Dongbu was not dumping. Accordingly, the Commission set the AEP to ANV.<sup>7</sup>
- That review took nine months to complete. By the end of that review, the price of HRC had [CONFIDENTIAL TEXT DELETED – change in price] from the levels it was during the original review period.
- As documented in Dongbu's application for its second variable factors review, the price of HRC [CONFIDENTIAL TEXT DELETED – change in price] by [CONFIDENTIAL TEXT DELETED – number]%. This had a flow on effect in the Australian market, in which Dongbu considered that prices for the goods under consideration [CONFIDENTIAL TEXT DELETED – change in price] by [CONFIDENTIAL TEXT DELETED – number]%.<sup>8</sup>
- Because of this, and again, as documented in the application, the AEP applied to Dongbu was significantly higher than the market price common in Australia. As the AEP effectively acted as a floor price, Dongbu's product was not competitive compared to other sources of zinc coated galvanised steel, including BSL's. As a result, Dongbu [CONFIDENTIAL TEXT DELETED – Dongbu trading history] to Australia following the outcome of its first review.<sup>9</sup>

<sup>5</sup> See Application, at page 11.

<sup>6</sup> Dongbu notes the recent passing of the *Customs Amendment (Anti-Dumping Measures) Act 2017*, which appears to have been done in rapid and direct response to BSL's concerns. The explanatory memorandum supporting that Bill does not appear to be objective, but rather, puts forward a fanciful argument in support of the law changes. To be frank, Dongbu is shocked that a modern, democratic nation such as Australia would bow to industry pressure so quickly, and embrace a law that is patently inconsistent with WTO rules.

<sup>7</sup> See EPR 273 Doc 013 – *Report 272 & 273 Aluminium Zinc Coated Steel & Zinc Coated Galvanised Steel*, at pages 16 and 21.

<sup>8</sup> See EPR 386 Doc 001 – *Application for review of anti-dumping measures by Dongbu Steel Co Ltd*, at page 7.

<sup>9</sup> *Ibid.*

- Accordingly, Dongbu applied for its second review of the variable factors, as it was entitled to under Australian law.

There is no artifice here. There were no conniving choices or underhanded motives. Dongbu simply exercised its rights under law. The fact it has done so is entirely irrelevant to the continuation inquiry.

It is important to recall that the anti-dumping system is not supposed to operate as an impenetrable wall of protection for BSL. It is an impartial system that is meant to correct instances of injurious dumping. Nothing more than that. The variable factors review system reflects the fact that circumstances faced by a manufacturer can change rapidly, and therefore allows for measures to be altered if evidence establishes the measures now over-protect the domestic industry. The Australian industry is equally able to apply for reviews in circumstances where it concerned that the measures are no longer sufficient to protect it.<sup>10</sup>

Since the outcome of its second review on 20 July 2017, Dongbu has begun exporting to Australia [CONFIDENTIAL TEXT DELETED – Dongbu trading behaviour]. These were [CONFIDENTIAL TEXT DELETED – Dongbu sales decision] which Dongbu only made if it considered [CONFIDENTIAL TEXT DELETED – Dongbu trading behaviour].

## C Export volumes to Australia

The Application fastens on an increase in exports from countries subject to the measures to support its call for continuation.<sup>11</sup> In support of this claim, the following data was submitted by BSL:

YE-July	China	Korea	Taiwan	Japan	India	Vietnam	Other	Total
2014	8,742	16,064	72,397	37,830	52,573	10,870	23,296	224,145
2015	5,725	11,823	55,005	27,399	19,934	2,923	75,128	206,490
2016	859	19,762	30,638	31,169	9,404	18,560	46,718	172,485
2017	24,004	27,757	55,493	28,461	11,133		17,703	174,827

The Application fails to note the following trends which are relevant to the Commission's task:

- The overall volume of imports from all sources – which are the only form of competition for BSL - have fallen by 22% between 2014 and 2017. This is almost double the volume of exports from Korea in 2017.
- The volume of goods from countries to which the measures relevant to this inquiry do not apply was 67,573MT (38% of total imports) in 2017. In previous years this was between 57% and 60%. While there was an increase in volumes from the countries subject to the measures, between 2016 and 2017, this appears to have been at the expense of exports from other sources.<sup>12</sup>
- Importantly, although the above data relates to countries to which the measures apply, it is not representative of the imports that are subject to the measures. This is because there are a number of exporters that are exempt from the measures, including Union Steel Co., Ltd

<sup>10</sup> As was done for Reviews 456 and 457.

<sup>11</sup> See Application, at page 10.

<sup>12</sup> See Industry Report, at page 16.

(now Dongkuk), Sheng Yu Co., Ltd and Ta Fong Steel Co., Ltd. Dongbu understands that in FY 2017 Dongkuk's exports to Australia were [CONFIDENTIAL TEXT DELETED – market volume information] (or [CONFIDENTIAL TEXT DELETED – number]% of the above reported volume).

- The above information [CONFIDENTIAL TEXT DELETED – Dongbu trading information] exports from Dongbu. Dongbu [CONFIDENTIAL TEXT DELETED – Dongbu trading history]. Accordingly, the Application's suggestion that *[e]xports from Korea have also increased sharply – from approximately 20,000 tonnes in 2015/16 to 27,753 tonnes in 2016/17* has nothing to do with Dongbu's [CONFIDENTIAL TEXT DELETED – Dongbu trading history].
- The largest single source of the goods in 2017 was Taiwan, representing approximately 33.7% of imports. In terms of volume, Taiwan also had the largest increase, adding 24,855 MT, with China as a close second, adding 23,145 MT. Again, it is unclear what proportion of this is actually subject to the measures, as Sheng Yu Co., Ltd and Ta Fong Steel Co., Ltd are Taiwanese and are both not subject to the measures. It is unclear what proportion of the export volume from Taiwan was not subject to measures.
- BSL argued that the increase in exports from China and Taiwan is a result of the outcome of variable factors reviews.<sup>13</sup> While it is not Dongbu's place to address this allegation fully we do note that the timeline does not support the conclusion. The reviews for Chinese and Taiwanese exporters concluded on 12 May 2017. If BSL's allegations are accurate this would suggest that the increase in exports from these countries – a total of 48,000 MT – would have occurred in the 49 days until 30 June 2017. This is incredibly unlikely, and calls into question the credibility of the claims made in the Application.

In summary, the Application's claims regarding the increase in volumes of exported goods are inaccurate, and not helpful for determining whether injurious dumping is likely to recur should the measures be revoked. At worst, they badly overstate the presence and effect of goods subject to measures in the Australian market.

What is relevant to the question under Section 269ZHF(2) of the Act is the fact that there are substantial quantities of the GUC in Australia that are not subject to any measures. Their prices and volumes are dictated via supply and demand in Australia. It is not apparent, given this, that there can be any basis for concluding that the expiry of the measures would have any impact on BSL's sales volume or price.

## D Impact and relevance of other dumping investigations

The Application cites a number of anti-dumping investigations undertaken by other jurisdictions into the goods as evidence that *"exporter variously in China, Korea and Taiwan have exported at dumped prices resulting in material injury to a domestic industry in the specified countries"*.<sup>14</sup> The Application further states that this would result in *"increased incentive for exporters the subject of measures to resume dumping in the Australian market"*.<sup>15</sup>

However, when the details of these investigations is understood, it is apparent that this line of reasoning is simply not applicable to Dongbu. The relevant details of these measures is as follows:

Investigation	Relevance to Dongbu
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<sup>13</sup> See Application, at page 9.

<sup>14</sup> *Ibid*, at page 6.

<sup>15</sup> *Ibid*.

US Department of Commerce AD/CVD measures regarding corrosion-resistant steel from China, India, Italy, South Korea and Taiwan	Dongbu was not selected as a mandatory respondent for this investigation. As a result, the dumping measures imposed do not reflect Dongbu's pricing behaviour. Dongbu is currently undertaking an administrative review, which will establish that it was not dumping. Moreover, the decision in this matter was made in 25 May 2016, so any impacts on Dongbu's sales processes would be apparent in the period of review.
Taiwanese investigation regarding hot dipped galvanised coil/sheet ("HDG") from China and South Korea	HDG is not a significant part of Dongbu's product mix, and Taiwan has never been a significant market for Dongbu.
Vietnamese investigation regarding HDG and coated sheet from China and South Korea	Vietnam is a small market for Dongbu, as there is not a lot of demand for high-spec product such as that produced by Dongbu in the Vietnamese market. As a result, Dongbu decided not to participate in this investigation.
Thai investigation regarding HDG and coated sheet from China, South Korea and Taiwan	This investigation was terminated 7 March 2018.

Respectfully, we submit that these investigations have no relevance to the consideration of whether the measures should be continued against Dongbu, as either an indicator of future behaviour, nor as a guide to predicting future export volumes.

BSL considers that these findings establish that *should the measures be allowed to expire in Australia, there would be an increased incentive for exporters the subject of measures to resume dumping into the Australian market*.<sup>16</sup> The reasoning for this is unclear. What is the imagined mechanism at play? What is the imagined incentive to dump? Dongbu notes the following:

- Any impact of these measures would be readily apparent in the information submitted by Dongbu. The information submitted by Dongbu establishes that Dongbu's capacity utilisation is [CONFIDENTIAL TEXT DELETED – Dongbu capacity utilisation rate] during the POR. Why would Dongbu divert sales from other countries to "resume dumping" on the Australian market?
- In the period of review, Dongbu exported the goods to 28 different countries, including Australia. Only 4 of these – including Australia - have anti-dumping measures imposed upon them.
- Since the original investigation, Dongbu's sales of the goods under consideration have [CONFIDENTIAL TEXT DELETED – change in sales] by [CONFIDENTIAL TEXT DELETED – number]%. This has been driven by a [CONFIDENTIAL TEXT DELETED – number] % [CONFIDENTIAL TEXT DELETED – change in sales] in Dongbu's domestic sales.<sup>17</sup> With a capacity utilisation in the period of investigation of [CONFIDENTIAL TEXT DELETED – Dongbu capacity utilisation rate], why would Dongbu divert sales from the domestic market to sell the goods in Australia at a lower cost? Ultimately, Dongbu will only ever sell to Australia if it considers [CONFIDENTIAL TEXT DELETED – Dongbu trading behaviour].

<sup>16</sup> *Ibid.*

<sup>17</sup> As per Attachment 13 to Dongbu's exporter questionnaire response to the original investigation, Dongbu's total sales of the GUC were [CONFIDENTIAL TEXT DELETED – Dongbu sales volume] and domestic sales were [CONFIDENTIAL TEXT DELETED – Dongbu sales volume].

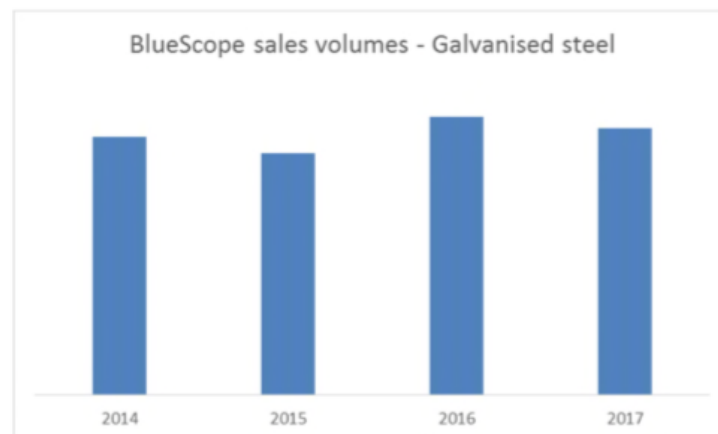
- In the circumstance that BSL's logic was correct it is equally applicable to exporters not subject to the measures, including Dongkuk, Sheng Yu Co., Ltd and Ta Fong Steel Co., Ltd, who are not subject to any measures.

Given this greater detail, it is clear that this information does little to assist the Commission in considering whether *sans* the measures, exporters subject to those measures would be likely to once again dump goods on the Australian market, or indeed, whether such dumping would be "injurious" in and of itself. At least insofar as Dongbu is concerned it has absolutely no probative value.

## E BSL's sales volumes since the measures were introduced

Obviously the question of whether BSL is likely to suffer a recurrence of injury is only answerable upon an objective review of BSL's current performance. What is surprising about the Application, is the absence of any detailed information regarding the operations of BSL. This has been somewhat remedied by the publication of *Continuation 449 and 450 and Reviews of Measures 456 and 457, Inquiry into the Continuation and Review of Anti-Dumping Measures Applying to the Zinc Coated (Galvanised) Steel Exported from the people's Republic of China, The Republic of Korea and Taiwan and Aluminium Zinc Coated Steel Exported from People's Republic of China and the Republic of Korea: Visit Report – Australian Industry – BlueScope Steel Limited* ("Industry Report").

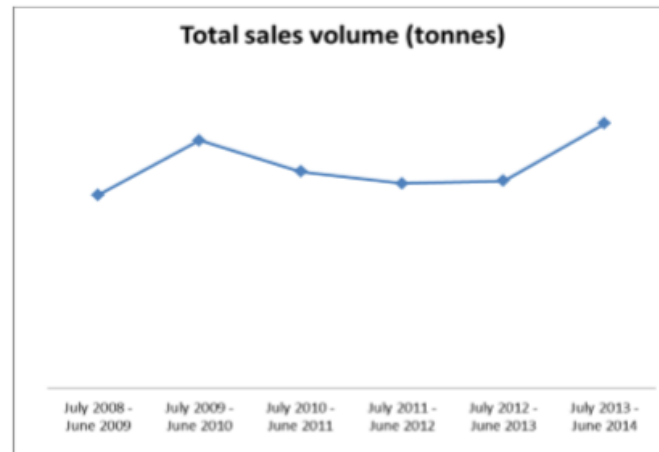
Of note, that report focuses on data from the period 2014 – 2017. The reason for this is unclear. The purpose of this inquiry is to determine whether there is a basis for continuing the measures. Surely in discharging that duty, it is important to consider the improvement in the Australian industry's performance since the measures were first imposed, as this will better illustrate how robust it now is and therefore how likely it is to suffer injury in the future. Take for example the following sales volume analysis from the Industry Report:



The accompanying commentary is that BSL's domestic sales volume has "remained stable between 2014 and 2017".<sup>18</sup> First of all, we think that is putting it too neutrally, BSL's sales volumes have increased on average from 2014. Secondly, when one consider more long-term information, it is clear that these sales volumes are higher than has been the case:

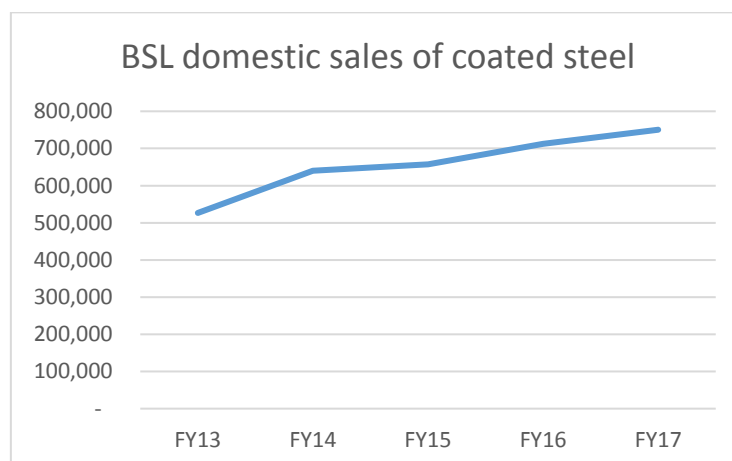
<sup>18</sup> See Industry Report, at page 10.





As per the above, taken from *Termination Report No. 249 - Alleged Dumping of Zinc Coated (Galvanised) Steel Exported from India and the Socialist Republic of Vietnam* ("Report No. 249"), it is clear that 2013-14 sales volumes were higher than BSL's sales volume at any point since 2008-09, including the period of investigation for the original investigation in which BSL was found to have suffered injury. Indeed, Report No. 249 characterises the increase in sales volume in FY14 as "noticeably".<sup>19</sup> Taken as a whole, BSL's sales volume in FY2017 is the second highest it has been since 2008. Calling this stable is an understatement. BSL's sales volume is significantly improved and, likely, historically unprecedented. Again, we recall that this has occurred in the same period of time as the level of imports have shrunk by 22%.

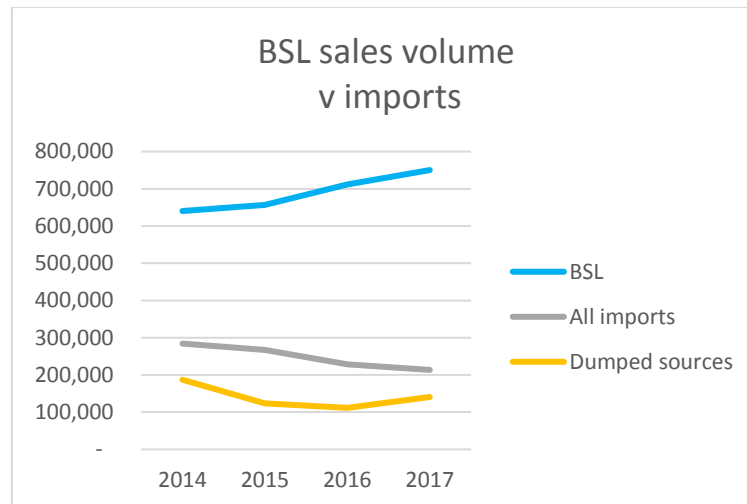
However, the above is an incomplete picture of the Australian industry's performance. Based on publicly available information, it is apparent that BSL's sales volume for coated product (both aluminium zinc coated steel and zinc coated (galvanised) steel), has increased significantly since the measures were first imposed:



Since 2013, BSL's sales of coated steel have increased from 525,000 MT to 750,000MT (over 40%). This is equal to over 200,000 MT, close to the volume of all imports of the goods (210,658 MT based on the information in the Applications) in 2017. During the same period of time exports of coated metal have decreased by 25% (approximately 70,000MT. This is further illustrated in the below graph:

<sup>19</sup> See EPR 249 Doc 069 – *Termination Report No. 249 – Alleged Dumping of Zinc Coated (Galvanised) Steel Exported From India And The Socialist Republic Of Vietnam*, at page 40.





It is evident that there have been significant improvements in the Australian market and that BSL has been the primary beneficiary of those improvements. BSL is not in the same position it was in the period considered during the original investigation. It is stronger, and its sales volumes are vastly improved. However, even this does not fully capture the scope of the Australian industry's activity. As the Commission recently confirmed, the concept of the "Australian industry" is not limited to sales of the goods under consideration, but rather by production of the goods under consideration.<sup>20</sup> In order to get a proper understanding of the performance of the Australian industry producing like goods,

The above information relates to BSL's sales, not its production. In this case, a significant portion of BSL's production of coated steel is used internally to produce pre-painted product, such as its "Colorbond" range. Dongbu understands that BSL sold approximately 500,000 MT of painted product in FY17 into the Australian market.<sup>21</sup> Assuming there is a one-to-one conversion rate between coated steel and painted steel, this means that BSL's sold or converted some 1,250,000MT of coated steel in FY2017, representing a total increase of 30% since 2013.

Based on the information from BSL, exports from the countries subject to measures were only 11% of BSL's total sales and internal transfers of the GUC. BSL is market dominant. It has supplanted imports from all sources since the measures were first imposed. On the facts before the Commission BSL is clearly less vulnerable to the injury that the measures were originally imposed on order to counteract.

## F BSL's pricing practices

Above we have addressed the contention that there was a resurgence of the goods subject to the measures that caused BSL injury in 2016/17. There has not been. Goods subject to the measures, and in particular, Korean goods the subject of the measures were very small in volume and, as a general proposition, could not have influenced BSL's price.

Nonetheless, BSL goes on to allege that its prices have been undercut by – what it considers to be dumped – exports from exporters subject to the measures in China, Korea and Taiwan, who sought variable factors reviews in 2016/17. BSL considers that this has resulted in a deterioration in profit which *can be attributed to BlueScope not being able to raise prices (due to competition from dumped exports) to recover rapidly increasing raw material steel input costs.*<sup>22</sup> Elsewhere, BSL states

<sup>20</sup> See EPR 384 Doc 061 – *Termination Report No. 384 – Alleged Dumping of Alloy Round Bar Exported from the People's Republic of China*, at page 22.

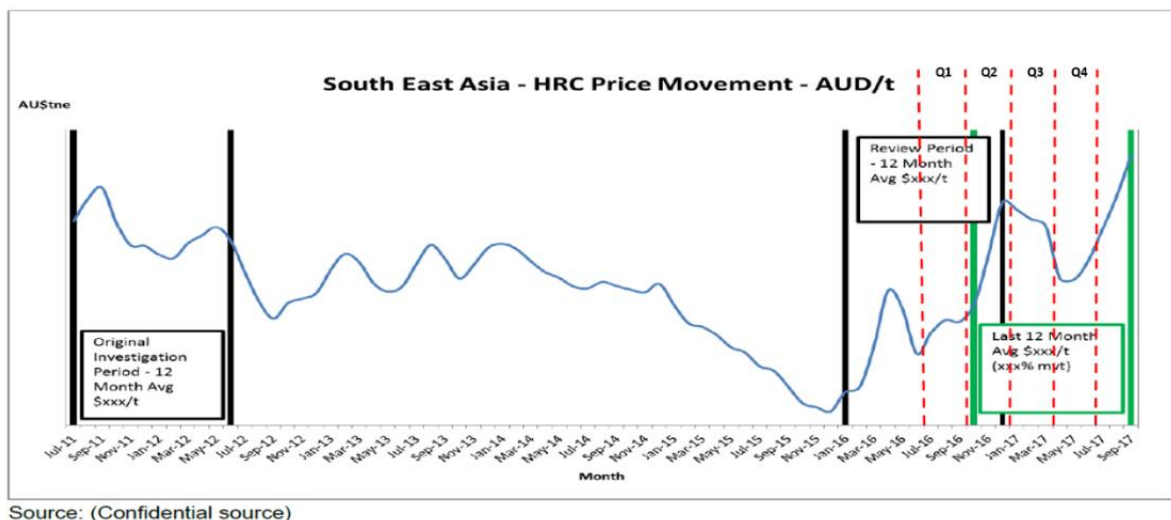
<sup>21</sup> This volume itself up from 440,000MT in FY2013.

<sup>22</sup> See Application, at page 10.

that it attributes this profit deterioration in 2016/17 to the outcomes of the previously identified review outcomes (that commenced early in the 2016/17 year) as announced in May 2017.<sup>23</sup>

At the outset, Dongbu [CONFIDENTIAL TEXT DELETED – Dongbu trading history], so whatever undercutting there may have been could not have been caused by its products. In addition to this the Industry Report does not use the term “undercutting” at all. However, with regard to this narrative generally, Dongbu notes:

- 1 the claim that there is a relationship between the BSL's inability to make a profit in 2016/17 and review outcomes does not stand up to the most basic of scrutiny. Presumably, the reference to 2016/17 is a reference to 1 July 16 – 30 June 17. The review outcome for Chinese and Taiwanese reviews was not finalised until 12 May 2017 (49 days prior to the close of 2016/17). Dongbu's own review was not finalised until 20 July 2017, 20 days past the conclusion of 2016/17. Drawing a causative link between the outcome of these reviews and BSL's supposed inability to make a profit in 2016/17 is blatantly false and baldly opportunistic.
- 2 Dongbu considers the Application overplays the relationship between review outcomes and BSL's price. In the Application BSL provides the following graph to illustrate this relationship:



Source: (Confidential source)

The Application goes on to states that [f]igure 1 highlights that following the outcome of review investigation No. 272, the Australian industry's selling prices declined in response (as Dongbu's variable factors declined).<sup>24</sup> Again, Dongbu [CONFIDENTIAL TEXT DELETED – Dongbu trading history] the outcome of its first review. BSL is either misstating the cause of its price reduction, or dramatically reduced prices based on the possibility that Dongbu might sell zinc coated steel into the Australian market at some point despite being bound by a floor price that was significantly higher than the contemporary market price.

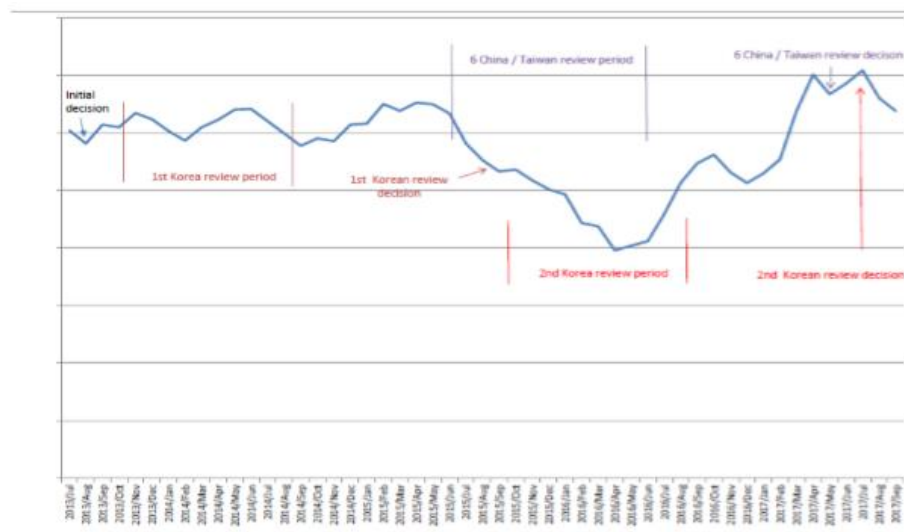
Dongbu notes that, according to the Application, in the period around the outcome of Dongbu's first review there were 11,823 tonnes of Korean zinc coated steel in the Australian market, [CONFIDENTIAL TEXT DELETED – Dongbu trading history] was produced by Dongbu, as well as 55,005 tonnes of Taiwanese product, 5,752 tonnes of Chinese product and 27,399 tonnes of Japanese product. And yet the Application attributes the dip in price to the outcome of Dongbu's review? How is this credible? Whether it is sensitivity to other factors, or manic over-sensitivity to the outcome of Dongbu's review, it was not Dongbu produced zinc coated galvanised steel that caused this decrease in price.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

- 3 What is clear from the above graph is that BSL has managed to increase its price to the highest level they have been at any time since the measures were originally imposed. This indicates that there is no price depression or suppression.
- 4 Dongbu also disagrees with the proposition that, but for the exports of the goods subject to measures, BSL would have been able to raise prices to recover increasing raw material steel input costs. The Industry Report confirms that BSL still adopts its IPP policy for the setting of price.<sup>25</sup> Dongbu understands that that this means that BSL's prices are set **three months** prior to sale. The basis for setting this price is not raw material costs, but rather prices from exporters. BSL has never indicated in any of the many investigations it has applied for, that it will alter its price to take into account subsequent raw material increases.

There can be massive variability in HRC costs in any three month period as indicated by the below diagram:



This graph has been sourced from BSL's Application for review of measures on HRC.<sup>26</sup> We have highlighted the three-month periods prior to each quarter of the POR. In three of four of those quarters the price of HRC was higher at the end of the period than it was at the start of the period. A price set in July-16 for sale in September-16 clearly would not have factored in the increase in HRC costs between July and September. So, the purported inability to recover increased HRC costs is not a result of imports, but rather a result of the lagged nature of BSL's pricing mechanism.

Having said that, it is clear that BSL was able to increase its price for zinc coated galvanised steel throughout the POR, to the extent that in July 2017 BSL's price was higher than it had been at any point since July 2013. This indicates that there was no price suppression.

So, the claims made by BSL should be disregarded. They simply do not provide any factual basis upon which to conclude that dumping and material injury will recur if the measures are allowed to expire.

What *is* relevant to the question posed by Section 269ZHF is the broader question of BSL's price setting mechanism. We know from previous investigations that BSL apparently targets an "*effective threat*" when setting its IPP each month. There is limited publically available information regarding this practice, although, it is apparent that BSL has regard to a supplier's volume, quality and the price of the product when determining if they are an "*effective threat*".<sup>27</sup> Having said all of that we also note

<sup>25</sup> See Industry Report, at page 17.

<sup>26</sup> See EPR 454 Doc 002 – BlueScope Application, at page 7.

<sup>27</sup> See EPR 370 Doc 106 – REP 370 – Galvanised Steel – India, Malaysia and Vietnam, at page 67.

that, the original investigation made the finding that the benchmark IPP price “closely” matched the lowest quoted price.<sup>28</sup> It seems unlikely in the light of significant volumes of product available in the Australian market to which no measures apply that Dongbu would be considered to be an effective “threat” for the purpose of BSL’s pricing mechanism.

In any regard, because of this mechanism, there is always going to be a limitation upon how much BSL will be able to increase its prices. There will also always be “undercutting” in the sense that BSL sets its prices by determining the IPP benchmark and then adding a premium with the result that the IPP benchmark will always be below BSL’s price. This is not undercutting in the sense that exporters are trying to take sales volume from BSL, but rather BSL being guided by exporters as to where they should set their price. There is nothing injurious about this. It is merely a side effect of BSL’s pricing practices. Ultimately, continuing the measures for fear that BSL may consider newly unrestrained exporters to be an “effective threat” will simply distort the market with no beneficial impact for BSL.

## G Other comments

In addition to the above, the Application also mentions the following as being relevant to BSL’s claim that measures should continue:

- significant capacity that is underutilised;<sup>29</sup>
- exporters having maintained distribution links;<sup>30</sup> and
- steel industry overcapacity.<sup>31</sup>

In that regard, Dongbu notes that its capacity was [CONFIDENTIAL TEXT DELETED – Dongbu capacity utilisation rate]. Dongbu does not understand where BSL’s concern regarding underutilised capacity have arisen, but it is not a concern applicable to Dongbu. Obviously this too is relevant to BSL’s claims regarding “steel industry overcapacity”. What is the relevance of overcapacity to an entity [CONFIDENTIAL TEXT DELETED – Dongbu capacity utilisation information]? In any regard, Dongbu feels that this issue has been overplayed in recent years. Indeed the only evidence that BSL has provided to support its contention is references to a 2016 report put together by the Anti-Dumping Commission itself. There is no actual evidence to suggest this has impacted the Australian market. Indeed, if things were as dire as BSL contends, then surely exports of the GUC from sources not subject to measures would have been similarly impacted and increased sharply. There is no evidence that this has occurred. Imports into Australia from all sources have decreased dramatically. BSL’s sales have increased dramatically. There is simply no evidence that this is relevant.

Finally, Dongbu’s sales have [CONFIDENTIAL TEXT DELETED – Dongbu trading behaviour]. It is [CONFIDENTIAL TEXT DELETED – Dongbu trading information] that have “distribution links” in Australia. If Dongbu’s exports are subject to measures, [CONFIDENTIAL TEXT DELETED – Dongbu trading information] will simply find other sources not subject to the measures. Again, this is an irrelevant consideration for Section 269ZHF(2).

## H Conclusion

There is little positive evidence before the Commission that would lead it to find that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

<sup>28</sup> See EPR 190 Doc 142 – *Report 190 Galvanised steel and Aluminium zinc coated steel – China, Korea and Taiwan April 2013*, at page 113.

<sup>29</sup> See Application, at page 13.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*, at page 9.

Specifically, with regard to Dongbu, the only basis put forward for continuation are baseless allegations that are almost immediately proven to be incorrect. Baseless allegations are not fact. They are not a basis to continue the measures.

Accordingly, we respectfully request that the Commission recommend to the Assistant Minister that expiry of the measures as they relate to Dongbu would not lead, or be likely to lead, to a continuation or recurrence of injurious dumping, and so that the measures expire, at least insofar as they relate to Dongbu.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alistair Bridges', with a long horizontal flourish extending to the right.

**Alistair Bridges**  
Senior Associate