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Mr John Bracic  
Director Operations 1  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
CANBERRA ACT 2601

Dear Mr Bracic

**Alleged Dumping of Hot Rolled Coil Steel (HRC) from Japan  
Application for Termination – No Material Injury**

We act for JFE Steel Corporation, Kobe Steel, Ltd. and Nisshin Steel Co., Ltd. (**the Co-Defence**) in relation to the current investigation by the Australian Customs and Border Protection Service (**Customs**) into alleged dumping of HRC exported from Japan, following an application lodged by Bluescope Steel Limited (**the Applicant**).

We submit that in accordance with s.269TDA(13) of the Customs Act 1901 (**the Act**) the CEO must terminate the investigation forthwith as injury, if any at all, attributable to allegedly dumped imports from Japan is clearly negligible. Alternatively, in view of the erroneous injury claims made by the applicant and the compounding of that error by the CEO in accepting those claims, we submit that Customs should encourage the Applicant to withdraw its application, pursuant to s.269TB(3) of the Act, in so far as it extends to exporters exporting from Japan.

Whether one relies on export data on HRC from Japan lodged by the Applicant or gathered by Customs or published by the Japanese Ministry of Finance or a mix of those sources, the following trends in Japanese HRC exports between April - March, 2010/2011 and the same period for 2011/2012 are indisputable:

- volume of trade reduced by about 60%.
- value of trade reduced by over 50%.
- average price per tonne increased by about 15%.

This profile is totally inconsistent with any claim that allegedly dumped Japanese exports caused injury to the Applicant in the investigation period and any such claim is further eroded by the modest decline of only about 13% in the applicant's value and volume of sales, the maintenance by the applicant of market share and the multiplicity of other factors impacting negatively on the applicant's performance. Some of these other factors have been referred to by the senior management of the Applicant as being part of ...'the perfect storm caused by factors outside the management's control' ...but significantly import competition is not mentioned as an element in that storm. In addition there is no specific mention of other key factors impacting performance

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such as the reduction of over 30% in Australian automotive production volumes in the four year injury examination period, the continuing decline in Australian manufacturing activity generally, the slow down in the construction sector and the massive reduction in the Applicant's export volumes in 2011/12.

Section 269TDA(13) specifies that an investigation must be terminated in relation to a particular country if any injury caused by dumping from that country is negligible. As the CEO has already recognised by the absence of any reference to the issues in Consideration Report, this isolated causation assessment required by the subsection is not subject to any of the aggregation provisions set out in s.269TDA or to the qualified cumulation provision in s.269TAE(2C). Of course even if the latter provision was a relevant consideration in the Minister's exercise of his termination power under s.269TDA(9), it could not apply in the present matter to exports from Japan because it would be inappropriate having regard to the conditions of competition between Japanese exports and exports from other nominated countries on the one hand and domestically produced goods on the other.

Continuation of the current investigation in so far as it relates to exports of HRC from Japan would be a breach of the CEO's obligation to terminate under the Act and an unwarranted interference in an important element of the trading relationship between Japan and Australia. Consequently we request that the CEO meets his obligation immediately.

Yours sincerely  
**MINTER ELLISON**



**John Cosgrave**  
-Director, Trade Measures

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enclosure