

Australian Government Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS NO. 272 & 273

REVIEW OF ANTI-DUMPING MEASURES ALUMINIUM ZINC COATED STEEL & ZINC COATED GALVANISED STEEL EXPORTED FROM THE REPUBLIC OF KOREA BY DONGBU STEEL CO LTD

18 May 2015

SEF 272 & 273 Aluminium Zinc Coated Steel & Zinc Coated Galvanised Steel

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ABBREVIATIONS

Abbreviation	Full title
ADN	Anti-Dumping Notice
ACBPS	Australian Customs Border Protection Service
ADRP	Anti-Dumping Review Panel
BlueScope	BlueScope Steel Limited
CON 272	Consideration Report 272
CON 273	Consideration Report 273
Dongbu	Dongbu Steel Co. Ltd
FOB	Free on board
IDD	Interim dumping duty
NIP	Non-Injurious Price
REP 190	International Trade Remedies Branch Report 190
REP 193	International Trade Remedies Branch Report 193
SEF	Statement of Essential Facts
the Act	Customs Act 1901
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	the goods to which the anti-dumping measures apply
the Minister	the Minister for Industry and Science
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

This review is in response to an application from Dongbu Steel Co Ltd (Dongbu) to review the anti-dumping measures as they apply to aluminium zinc coated steel and zinc coated galvanised steel¹ exported to Australia from the Republic of Korea (Korea) by Dongbu.

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Parliamentary Secretary² to the Minister for Industry and Science (Parliamentary Secretary).

1.2 Proposed recommendation

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice have effect in relation to Dongbu as if different variable factors had been ascertained.

1.3 Final report

The Commissioner's final report and recommendations must be provided to the Parliamentary Secretary by **30 June 2015**.

¹ A full description of the goods is at section 3.3.

² On 25 September 2013, responsibility for anti-dumping matters was transferred to the Minister for Industry and Science. The Minister for Industry and Science subsequently delegated responsibility for anti-dumping matters to the Parliamentary Secretary to the Minister for Industry and Science.

2 BACKGROUND

2.1 Initiation

2.1.1 Aluminium Zinc Coated Steel

On 1 October 2014, Dongbu lodged an application requesting a review of the anti-dumping measures as they apply to Dongbu's exports of aluminium zinc coated steel to Australia from Korea under Division 5 of Part XVB of the Act.³ Dongbu claims that certain variable factors relevant to the taking of the anti-dumping measures have changed.

The Anti-Dumping Commission (the Commission) examined the application and the Commissioner of the Anti-Dumping Commission (the Commissioner) decided not to reject the application. A notice was published in *The Australian* newspaper on 28 October 2014 detailing the initiation of the review. Anti-Dumping Notice (ADN) No. 2014/114 and Consideration Report 272 (CON 272) are available on the Commission's website and describe the goods under review and the Commission's consideration of the application.

Dongbu's application sought to review the variable factors pertaining to Dongbu only and did not seek the review to be extended to other exporters of aluminium zinc coated steel from Korea.

The review period for this inquiry is from 1 October 2013 to 30 September 2014.

2.1.2 Zinc Coated Galvanised Steel

On 1 October 2014, Dongbu lodged an application requesting a review of the anti-dumping measures as they apply to Dongbu's exports of zinc coated galvanised steel to Australia from Korea under Division 5 of Part XVB of the Act. Dongbu claims that certain variable factors relevant to the taking of the anti-dumping measures have changed.

The Commission examined the application and the Commissioner decided not to reject the application. A notice was published in *The Australian* newspaper on 31 October 2014 detailing the initiation of the review. Anti-Dumping Notice (ADN) No. 2014/120 and Consideration Report 273 (CON 273) are available on the Commission's website and describe the goods under review and the Commission's consideration of the application.

Dongbu's application sought to review the variable factors pertaining to Dongbu only and did not seek the review to be extended to other exporters of zinc coated galvanised steel from Korea.

The review period for this inquiry is from 1 October 2013 to 30 September 2014.

³ A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

2.2 Previous dumping cases

2.2.1 Aluminium Zinc Coated Steel

On 5 September 2012, a dumping investigation into aluminium zinc coated steel exported from the People's Republic of China (China) and Korea was initiated following an application by BlueScope Steel Limited (BlueScope). The investigation, as outlined in International Trade Remedies Branch Report 190 (REP 190),⁴ found that:

- aluminium zinc coated steel exported to Australia was dumped. For China the dumping margins were between 5.5% to 19.3%; for Korea the dumping margins were between a negligible rate and 7.7%;
- 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.

In REP 190 Dongbu was found to have a dumping margin of 5.8%. The investigation determined that the free on board (FOB) non-injurious price (NIP) for each exporter was the price equal to the respective normal value. As such, the lesser duty rate did not apply and dumping duties imposed were at the full level of the dumping margin found.

The Attorney-General (the decision maker at that time) imposed interim dumping duty on the goods exported from China and Korea on 5 August 2013. Notice of the Attorney-General's decision was given in Anti-Dumping Notice No. 2013/66.⁵

The Attorney-General's decision was referred to the Anti-Dumping Review Panel (ADRP) for review in relation to certain findings made in REP 190 relating to the dumping investigation into aluminium zinc coated steel exported from Korea. On 21 February 2014, the Parliamentary Secretary decided to vary the dumping duty notice with effect from 5 August 2013 by excluding from the description of the goods unchromated products of aluminium zinc coated steel exported from Korea.⁶

2.2.2 Zinc Coated Galvanised Steel

On 5 September 2012, a dumping investigation into zinc coated galvanised steel exported from China, Korea and Taiwan was initiated following an application by BlueScope Steel Limited (BlueScope). The investigation, as outlined in International Trade Remedies Branch Report 190 (REP 190),⁷ found that:

⁴ REP 190 investigated galvanised steel and aluminium zinc coated steel exported from China, Korea and Taiwan. Due to the close nature of these products and common interested parties, findings from both dumping investigations were detailed in one report.

⁵ ADN 2013/66 outlines the details of the interim dumping duty applicable to galvanised steel and aluminium zinc coated steel exported to Australia from China, Korea and Taiwan.

⁶ ADN 2014/13 outlines that on 21 February 2014, the Parliamentary Secretary accepted the recommendation of the ADRP and varied the dumping duty notice by excluding unchromated products exported from Korea from the description of the goods.

⁷ REP 190 investigated zinc coated galvanised steel and aluminium zinc coated steel exported from China, the Republic of Korea (Korea) and Taiwan. Due to the close nature of these products and common interested parties, findings from both dumping investigations were detailed in one report.

- zinc coated galvanised steel exported to Australia was dumped. For China the dumping margins were between 6.8% and 62.9%, for Korea the dumping margins were between a negligible rate and 28.5% and for Taiwan the dumping margins were between a negligible rate and 8.6%;
- 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.

In REP 190 Dongbu was found to have a dumping margin of 3.2%. The investigation determined that the FOB non-injurious price for each exporter was the price equal to the respective normal value. As such, the lesser duty rule did not apply and dumping duties imposed were at the full level of the dumping margin found.

The Attorney-General (the decision maker at that time) imposed interim dumping duty on the goods exported from China, Korea and Taiwan on 5 August 2013. Notice of the Attorney-General's decision was given in Anti-Dumping Notice No. 2013/66.⁸

2.3 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for, or the Parliamentary Secretary may request that the Commission conduct, a review of those measures if one or more of the variable factors has changed. The Parliamentary Secretary may initiate a review at any time; however, a review application may not be lodged earlier than twelve months after publication of the notice implementing the original anti-dumping measures or the notice(s) declaring the outcome of the last review.⁹

If an application for a review of anti-dumping measures is received and not rejected, the Commission has up to 155 days, or such longer time as the Parliamentary Secretary may allow, to conduct a review and report to the Parliamentary Secretary on the review of the measures.¹⁰ Within 110 days of the initiation, or such longer time as the Parliamentary Secretary may allow, the Commissioner must place on the public record a SEF on which he proposes to base recommendations to the Parliamentary Secretary concerning the review of the anti-dumping measures.¹¹

In making recommendations in his final report to the Parliamentary Secretary, the Commissioner must have regard to:¹²

- the application for a review of the anti-dumping measures;
- any submission relating generally to the review of the measures to which the delegate has had regard for the purpose of formulating the SEF;
- this SEF; and

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⁸ ADN 2013/66 outlines the details of the interim dumping duty applicable to zinc coated galvanised steel and aluminium zinc coated steel exported to Australia from China, Korea and Taiwan.

⁹ Section 269ZA of the Act

¹⁰ Section 269ZDA of the Act

¹¹ Section 269ZD of the Act

¹² Subsection 269ZDA(3)(a) of the Act

• any submission made in response to this SEF that is received by the Commission within 20 days of it being placed on the public record.

The Commissioner may also have regard to any other matter considered to be relevant to the review.¹³

During the course of this review, the Commission examined whether the variable factors have changed. Variable factors in this context are a reference to:¹⁴

- the ascertained export price;
- the ascertained normal value; and
- the non-injurious price.

At the conclusion of a review, in respect of a dumping duty notice, the Commissioner must provide a recommendation to the Parliamentary Secretary that the dumping duty notice:¹⁵

- remain unaltered; or
- have effect as if different variable factors had been ascertained; or
- in the case where a revocation of the anti-dumping measures is sought, that the dumping duty notice or countervailing duty notice be revoked.

Following the Parliamentary Secretary's decision, a notice will be published advising interested parties of the decision.

2.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base final recommendations to the Parliamentary Secretary.

This SEF represents an important stage in the investigation. It informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses in making his final report to the Parliamentary Secretary. The report will recommend whether or not the dumping duty notice should be varied, and the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than <u>7 June 2015</u>.

¹³ Subsection 269ZDA(3)(b) of the Act

¹⁴ Subsection 269T(4E) of the Act

¹⁵ Subsection 269ZDA(1)(a) of the Act

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.

The Commissioner must report to the Parliamentary Secretary by 30 June 2015.

Submissions should preferably be emailed to operations1@adcommission.gov.au.

Alternatively, they may be sent to fax number +61 3 8539 2499, or posted to:

Director Operations 1 GPO Box 1632 Anti-Dumping Commission MELBOURNE VIC 3001 AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record.

A guide for making submissions is available on the Commission's website <u>www.adcommission.gov.au</u>.

The Public Record contains non-confidential submissions by interested parties, the nonconfidential versions of the Commission's visit reports and other publicly available documents. It is available by request in hard copy in Melbourne (telephone (03) 8539 2419 to make an appointment), or online at <u>www.adcommission.gov.au</u>

Documents on the Public Record should be read in conjunction with this SEF.

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commission considers the Australian industry still produces aluminium zinc coated steel and zinc coated galvanised steel that have characteristics closely resembling those of the goods under consideration, and therefore, aluminium zinc coated steel and zinc coated galvanised steel manufactured by the Australian industry are considered like goods.¹⁶

3.2 Legislative framework

The Commissioner must be satisfied that the "like" goods are in fact produced in Australia. Subsection 269T(2) of the Act specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In accordance with subsection 269T(3) of the Act, for goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

3.3 The goods

3.3.1 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.

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

A full description and clarification of the goods is available in Australian Customs Dumping Notice No. 2012/62 which is available on the Commission's website at <u>www.adcommission.gov.au</u>.

The following additional information is provided to clarify the goods covered by the measures:

• Product treatment

The 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),¹⁷ resin coated or not resin coated (often

¹⁶ In terms of section 269T.

¹⁷ ADN 2014/13 outlines that on 21 February 2014, the Parliamentary Secretary accepted the recommendation of the ADRP and varied the dumping duty notice by excluding unchromated products exported from Korea from the description of the goods.

referred to as Anti Finger Print (AFP) or not AFP), oiled or not oiled, skin passed or not skin passed.

• Excluded goods

Painted aluminium zinc coated steel and pre-painted aluminium zinc coated steel were not covered by the original investigation.

As mentioned under section 2.2.1, following an application for a review to the ADRP in relation to certain findings made in REP 190, the Parliamentary Secretary decided to vary the dumping duty notice by excluding unchromated products of aluminium zinc coated steel exported from Korea,¹⁸ from the description of the goods.

3.3.2 Zinc Coated Galvanised Steel

The goods the subject of the zinc coated 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.

Zinc coated steel is commonly referred to as galvanised steel.

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.

A full description and clarification of the goods is available in Australian Customs Dumping Notice No. 2012/62 which is available on the Commission's website <u>www.adcommission.gov.au</u>.

The following additional information is provided to clarify the goods covered by the measures:

• Product treatment

The application covers zinc coated 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).

• Excluded goods

Painted galvanised steel, pre-painted galvanised steel, electro-galvanised plate steel and corrugated galvanised steel are not covered by the application and subsequent investigation.

¹⁸ ADN 2014/13.

3.4 Tariff classification

3.4.1 Aluminium Zinc Coated Steel

Aluminium zinc coated steel is classified to tariff subheading 7210.61.00 (statistical codes 60, 61, and 62) in Schedule 3 to the *Customs Tariff Act 1995*.

The goods exported to Australia from Korea under this tariff subheading are subject to a five per cent rate of duty.

3.4.2 Zinc Coated Galvanised Steel

Zinc coated galvanised steel is classified to tariff subheadings 7210.49.00 (statistical codes 55, 56, 57 and 58) and 7212.30.00 (statistical code 61) of Schedule 3 to the *Customs Tariff Act 1995*.

The goods exported to Australia from Korea under this tariff subheading are subject to a five per cent rate of duty.

3.5 Australian industry producing like goods

During the original investigation, the Australian Customs Border Protection Service¹⁹ (ACBPS) found that:

- there was an Australian industry producing like goods;
- a substantial process of the manufacture was carried out in Australia in producing the like goods; and
- the like goods were wholly manufactured in Australia.

The Commissioner remains satisfied that there is an Australian industry producing like goods, which are wholly manufactured in Australia.

¹⁹ On 1 July 2013, the International Trade Remedies Branch of the Australian Customs and Border Protection Service became the Anti-Dumping Commission

4 VARIABLE FACTORS

4.1 Finding

The Commissioner finds that the variable factors relevant to the taking of anti-dumping measures in relation to the goods exported to Australia by Dongbu have changed.

4.2 Export price

4.2.1 Aluminium Zinc Coated Steel

The Commission considers that:

- the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arms length transactions.

As such, export prices were established pursuant to subsection 269TAB(1)(a), using Dongbu's export invoice prices, excluding any part of that price that related to post-exportation charges.

The resulting ascertained export price for aluminium zinc coated steel exported by Dongbu has changed since the original investigation. Details of export price calculations for aluminium zinc coated steel are at **confidential appendix 1**.

4.2.2 Zinc Coated Galvanised Steel

The Commission considers that:

- the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arms length transactions.

As such, export prices were established pursuant to subsection 269TAB(1)(a), using Dongbu's export invoice prices, excluding any part of that price that related to post-exportation charges.

The resulting ascertained export price for zinc coated galvanised steel exported by Dongbu has changed since the original investigation. Details of export price calculations for zinc coated galvanised steel are at **confidential appendix 1A**.

4.3 Normal value

For both aluminium zinc coated steel and zinc coated galvanised steel, normal values were established in accordance with subsection 269TAC(1), using Dongbu's domestic invoice prices for like goods, by model, for like goods sold in the ordinary course of trade in arms length transactions.

Adjustments to the normal value were made under subsection 269TAC(8) to ensure fair comparison with the export price. Adjustments made for the review of measures were

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consistent with the approach undertaken in respect of Dongbu at the time of the original dumping investigation.²⁰

The resulting ascertained normal value for aluminium zinc coated steel and zinc coated galvanised steel exported by Dongbu has changed since the original investigation.

Details of normal value calculations for aluminium zinc coated steel are at **confidential appendix 2**.

Details of normal value calculations for zinc coated galvanised steel are at <u>confidential</u> <u>appendix 2A.</u>

4.4 Dumping Margin

The Commission compared the quarterly weighted average of export prices over the whole of the review period with the quarterly weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a) of the Act.

The weighted average dumping margin for aluminium zinc coated steel exported to Australia by Dongbu in the investigation period was less than zero.

The weighted average dumping margin for zinc coated galvanised steel exported to Australia by Dongbu in the investigation period was less than zero.

Details of dumping margin calculations for aluminium zinc coated steel are at **confidential appendix 3.**

Details of dumping margin calculations for zinc coated galvanised steel are at **confidential appendix 3A.**

4.5 Non-injurious price (NIP)

4.5.1 General

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause material injury to an Australian industry producing like goods. The level of dumping duty imposed cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury.

Under section 8 of the *Customs Tariff (Anti-Dumping) Act 1975,*²¹ the Parliamentary Secretary must have regard to the desirability of ensuring that the amount of dumping duty is not greater than is necessary to prevent injury or a recurrence of the injury. Subsection 269TACA(a) of the Act identifies the NIP of the goods exported to Australia as the minimum price necessary to remove the injury caused by the dumping.

²⁰ Page 28, Dongbu Steel Co., Ltd, Exporter Visit Report, December 2012, http://www.adcommission.gov.au/cases/Documents/065-VerificationReport-Exporter-DongbuSteelCoLtd.pdf

²¹ Subsection 8(5BA) of the Customs Tariff (Anti-Dumping) Act 1975

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). Deductions from this figure are made for post-exportation costs to derive a NIP that is expressed in similar delivery terms to export price and normal value (e.g. FOB).

Where the NIP is lower than the normal value, the duty is calculated with respect to the difference between export price and NIP, thereby giving effect to the lesser duty rule.

4.5.2 Submissions

In its submission of 8 December 2014, BlueScope stated:22

In Trade Measures Report No. 190, the Commission concluded that the non-injurious price ("NIP") should be based on the full margin of dumping. Whereas it is BlueScope's preference for a NIP to be based upon a different methodology, BlueScope is pragmatic to understand that any measures cannot exceed the full margin of dumping. BlueScope anticipates the Commission will again recommend (as it did in the original investigation) that the NIP in the review will also be at the full margin of dumping.

4.5.3 Assessment of NIP

In REP 190, the ACBPS expressed the view that in a market unaffected by dumping, it is reasonable to expect that BlueScope would be able to achieve, as a minimum, selling prices that reflected undumped import parity pricing. Accordingly, the ACBPS considered that the NIP (expressed at FOB delivery terms) for each exporter is a price equal to the respective normal value. In establishing the NIP at the same level as the normal value, the lesser duty rule did not come into effect and duties were imposed at the full margin of dumping.

The Commission considers that the approach to determining the NIP in REP 190 remains valid for the purpose of this review. Therefore, the Commission has again established the NIP as an amount that is equal to the normal value.

²² Electronic Public Record, Case No. 272, record number 5.

5 EFFECT OF THE REVIEW

The Commissioner has found that, in relation to exports to Australia of aluminium zinc coated steel and zinc coated galvanised steel from Korea by Dongbu during the review period:

- the ascertained export price has changed;
- the ascertained normal value has changed;
- the dumping margin was less than zero.

The Commissioner proposes to recommend that the ascertained normal values for aluminium zinc coated steel and zinc coated galvanised steel be set in accordance with the respective weighted average normal values used to calculate the dumping margins for the review. The Commissioner also proposes to recommend that the ascertained export prices and ascertained NIPs for aluminium zinc coated steel and zinc coated galvanised steel be set in accordance with the respective weighted average normal values used to calculate the dumping margins for the review.

The Commissioner proposes to recommend to the Parliamentary Secretary that the interim dumping duty payable is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to subregulation 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013.* This is consistent with the method used in the original dumping duty notice. Therefore, the dumping duty payable comprises a fixed component that is zero, and a variable component that will be payable if the actual export price is below the ascertained export price which is a specified (confidential) amount per tonne.

6 CONFIDENTIAL APPENDICES

Confidential Appendix 1	Export price calculations – aluminium zinc coated steel
Confidential Appendix 1A	Export price calculations – zinc coated galvanised steel
Confidential Appendix 2	Normal Value calculations – aluminium zinc coated steel
Confidential Appendix 2A	Normal Value calculations – zinc coated galvanised steel
Confidential Appendix 3	Dumping margin calculations – aluminium zinc coated steel
Confidential Appendix 3A	Dumping margin calculations – zinc coated galvanised steel