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The Director - Investigations 4
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Expiry review of hot-rolled coil steel exported by China Steel Corporation from Taiwan

This submission is made on behalf of China Steel Corporation (CSC) to the current expiry review into hot rolled coil steel (HRC) exported from Taiwan.

Section 269ZHF(2) of the Customs Act ("the Act") explicitly requires that the Commissioner:

must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner 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.

The Commission's Dumping and Subsidy Manual¹ provides further guidance on the threshold test for establishing whether recurrence of dumping is 'likely'. It explains that:

In examining the likelihood of injury as a result of any future dumping or subsidy, the Commission takes guidance from WTO jurisprudence where 'likely' has been taken to mean 'probable'...

In *US Drums*², the WTO Dispute Panel found that the continued imposition of measures must be based on 'positive evidence'. The Panel stated:

Accordingly, we must assess the essential character of the necessity involved in cases of continued imposition of an anti-dumping duty. We note that the necessity of the measure is a function of certain objective conditions being in place, i.e. whether circumstances require continued imposition of the anti-dumping duty. That being so, such continued imposition must, in our view, be essentially dependent on, and therefore assignable to, a foundation of positive evidence that circumstances demand it. In other words, the need for the continued imposition of the duty must be demonstrable on the basis of the evidence adduced.

¹ Dumping & Subsidy Manual; December 2013, page 153

² US Drums – WT/DS99/R; para 6.42, page 139.

Further, the Appellate Body said of Article 11 in *Corrosion Resistant Carbon Steel*³:

In view of the use of the word "likely" in Article 11.3, an affirmative likelihood determination may be made only if the evidence demonstrates that dumping would be probable if the duty were terminated—and not simply if the evidence suggests that such a result might be possible or plausible.

Therefore, the Act requires that the Commissioner recommend expiry of the measures, unless there is positive evidence to demonstrate that the recurrence of dumping in the future is likely or probable (ie. implying a greater degree of certainty that the event will occur than a finding that the event is not "not likely").

1. GROUNDS FOR RECOMMENDING EXPIRY OF MEASURES

a) CSC's exports continue to be non-injurious

In the original investigation (Case No. 188), the Commission calculated CSC's dumping margin to be 2.6% which was at the lower end of the range of margins found to exist for other investigated exporters from Japan (7.5%), Korea (3% - 12%) and Malaysia (15.4%).

Since then, CSC has participated in each of the three subsequent reviews, with dumping margins ranging of -5%, -2% and 5%. Importantly and irrespective of the dumping margins, the Commission found in each review that CSC's exports were sold at prices that exceeded injurious levels. In effect, the Commission has confirmed that in each of the reviews since the original imposition of measures, that CSC's exports to Australia were non-injurious.

It is expected that the Commission will again establish that the non-injurious price for the current review will be lower than CSC's ascertained normal value and ascertained export price, resulting in the non-injurious price being the operative measure. This consistent pattern of CSC exporting at prices exceeding non-injurious levels is the most relevant and contemporary evidence that demonstrates that its exports are not likely to lead to a recurrence of material injury.

b) CSC's distribution links

CSC has continued exporting to Australia since the original imposition of measures and as the Commission can observe, CSC has maintained a stable and exclusive distribution link with a single primary customer (██████████). This confirms that CSC has not made any effort to expand its distribution links into the Australian market, beyond servicing its long-standing Australian customer.

c) HRC exports outside scope of BlueScope product offering

CSC is aware that BlueScope's HRC product offering is limited to a maximum coil width of 1,550mm⁴. It is unclear whether this width limitation is due to BlueScope being incapable of manufacturing wider coils, or whether it is simply a commercial decision. Regardless of the reasons, there is substantial demand in the Australian market from end-user customers requiring extra wide coils. Those local customers requiring coils wider than 1,550mm are not able to currently place orders with BlueScope for such product.

³ US – Sunset Review of Anti-Dumping Duties on Corrosion Resistant Carbon Steel Flat Products from Japan – WT/DS244/AB/R; para 111, pages 39-40.

⁴ <https://steel.com.au/products/hot-rolled>

Instead, those customers are required to turn to imports to meet their specific dimensional requirements of HRC, outside the scope of product offered by BlueScope. To that end, CSC can confirm that more than ■■■% of its HRC exported during the review period, were in widths larger than 1,550mm. The Commission is able to confirm this by reviewing CSC's verified Australian sales listing at Exhibit B-2.

Given that locally produced coils exceeding 1,550mm are unobtainable domestically, exports of these wider coils by CSC cannot be injurious as there are no like products offered by BlueScope, which meet the customer's width requirements.

d) Capacity

CSC has limited excess capacity, with capacity utilisation being approximately ■■■% during the review period. In addition, Australian export sales represented a tiny fraction of CSC's total sales, representing a mere ■■■% of total sales volume.

Further, as demonstrated to the Commission with supporting evidence, CSC has limited scope to supply and meet order quantities for the Australian market, due to competing demand from other domestic and export customers for the range of finished steel products offered by CSC. The evidence provided to the Commission confirms that CSC has negotiated with the Australian customer and informed them of the demands from its wider customer base which has impacted its ability to deliver the order quantities sought by the Australian customer.

e) Impact of measures on prices

CSC's exports have been subject to different floor prices since 2017, with the price being based on the non-injurious price. CSC's exports have continually been exported above the retrospectively calculated non-injurious price levels, and also above the prevailing non-injurious floor price for its prospective exports. This confirms that the floor prices were not a determinative factor in CSC setting its export prices, and that its export price setting methodology was sufficient to ensure that exports to Australia did not cause material injury by being priced above the Australian industry's equivalent unsuppressed selling prices.

f) Exports from other countries

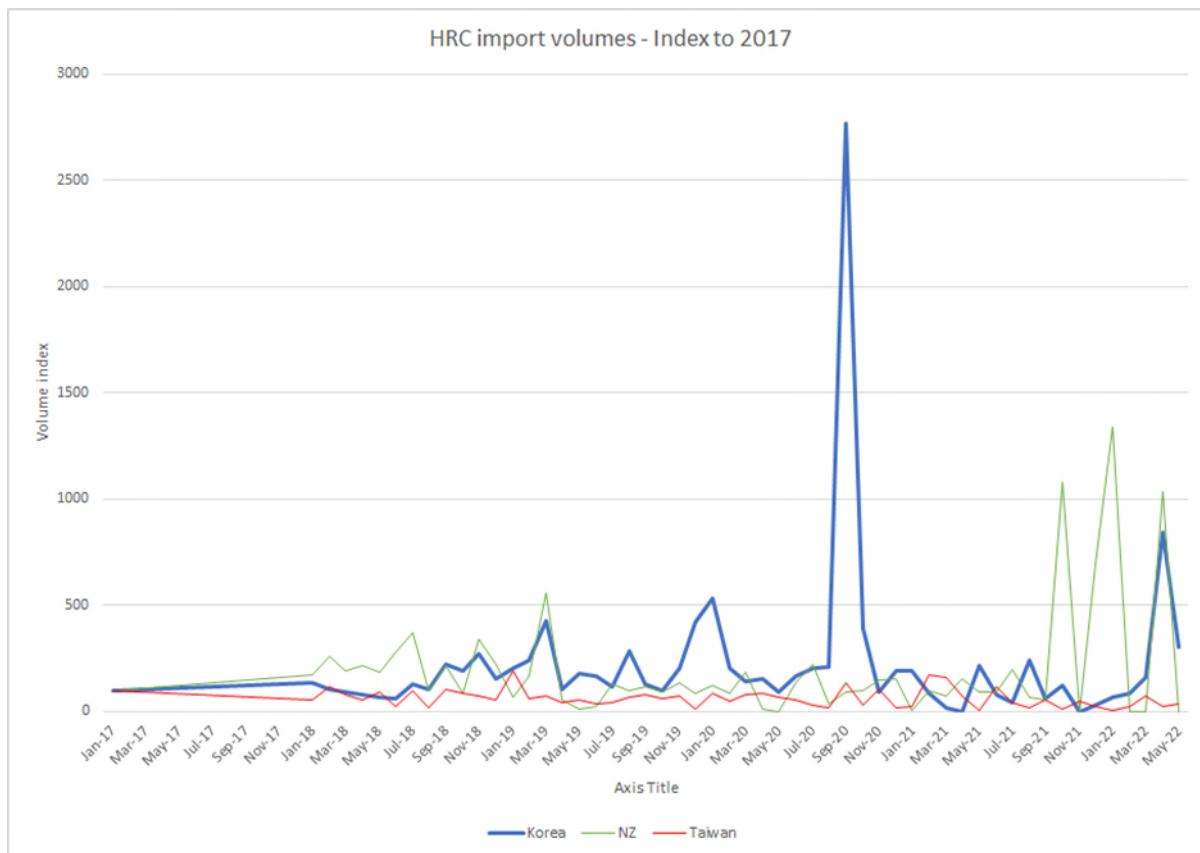
It is important to note that the original imposition of measures included exports from three other countries, following the finding that dumped exports from Japan, Korea and Malaysia, had caused material injury. In addition, it is also worth highlighting that the Commission included export sales of HRC from BlueScope New Zealand as forming BlueScope's overall Australian market share.

In the 2017 expiry review, (Case no. 400), the Commission recommended the expiry of measures against exports from Japan, Korea and Malaysia, after establishing that exports of HRC:

- from Malaysia to Australia had essentially ceased;
- from Japan had been in relatively stable volumes;
- from Korea have declined in volume, but are still a significant presence in the market, and
- from Taiwan have declined in volume, but are still the largest source of imported product in the Australian market.

The Commission again found significant export volumes from BlueScope's New Zealand subsidiary and treated those export sales as being part of the Australian industry's sales and market share.

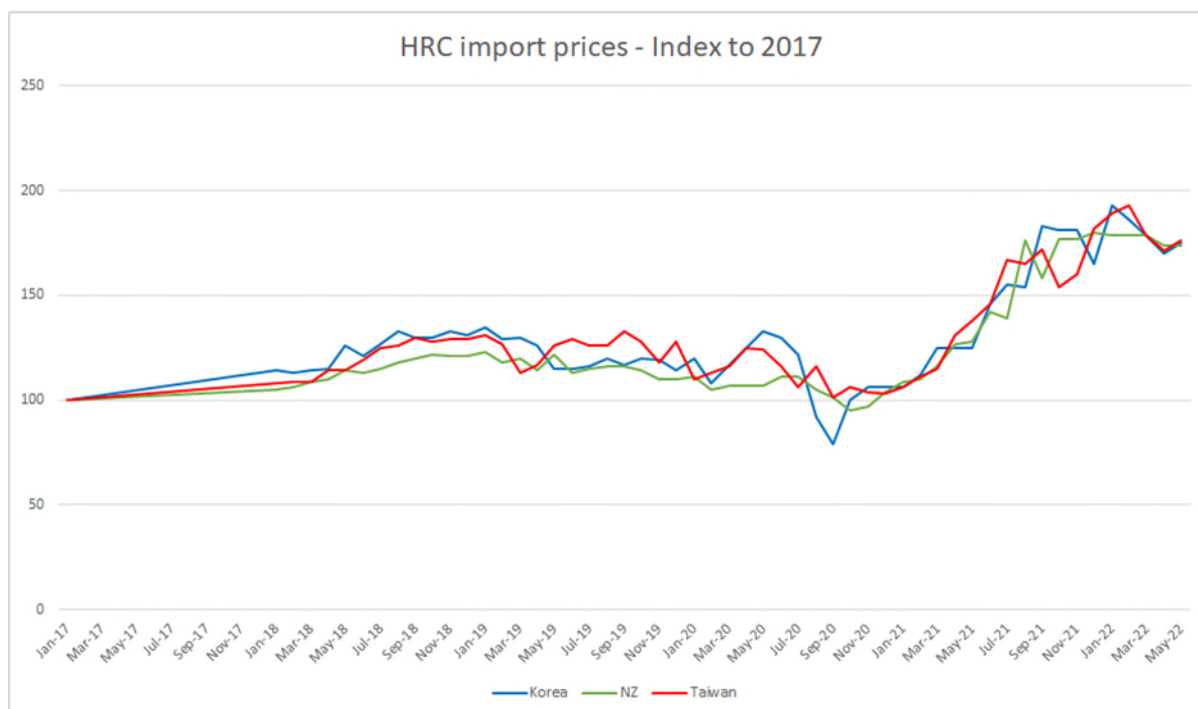
Whilst CSC does not have access to precise import volumes of HRC into the Australian market since the finalisation of case 400, the Commission's Trade Remedy Index ("TRINDEX") contains indexed movements in volumes and prices from individual exporting countries. The data showing the indexed movements in import volumes from Korea, NZ and Taiwan are outlined in the chart below.



The data shows:

- increased volatility in monthly import volumes from Korea, with monthly imports exceeding three times the volume in the index period on regular occasions;
- increased volatility in monthly import volumes from NZ, particularly since mid-2021 with import volumes regularly exceeding the volumes in the index period with a range of 695 to 1,339 percentage points;
- stable and consistent monthly import volumes from Taiwan, with no real spikes or irregular monthly volumes.

The TRINDEX data also shows indexed movements in import prices over the same period, shown in the chart below. It confirms that indexed monthly price movements for Taiwanese HRC imports followed similar trends in price movements for Korean and New Zealand HRC imports. As there are no dumping measures on Korean and NZ HRC imports, those imports are to be treated as non-injurious from the perspective of the dumping system. Given the that Taiwanese import prices followed similar trends to Korea and NZ, this further supports the Commission's previous findings that exports from Taiwan were also non-injurious.



g) Strong economic condition of the Australian industry

CSC notes the Commission's verification report of BlueScope's financial data confirms that:

- industry's sales volumes have increased since 2017, reaching their highest levels in 2021;
- industry's market share has remained steady between 2017 to 2021, confirming that BlueScope's sales volumes have increased consistent with the overall increase in the Australian market. Importantly, BlueScope continues to be the dominant market participant, with an estimated market share exceeding 80%.
- industry's selling prices have been trending upwards since 2017, reaching their highest levels in 2021. This confirms that BlueScope has not experienced price depression over the injury analysis period;
- industry's unit cost to make and sell experienced a similar upward trend to prices, with the spread to prices increasing in 2020 before reaching their greatest level in 2021. This confirms that price suppression was not experienced by BlueScope;
- given the increasing trend in prices and the increasing spread to costs, it is confirmed that BlueScope's profits and profitability have also experienced an increasing trend with levels reaching their highest point in 2021.

Publicly available information⁵ further supports the Commission's injury findings that BlueScope has experienced a sharp strengthening of its financial position through to 2022. A review of 2021 financial indicators show a record improvement in BlueScope's company-wide performance and the 'Australian Steel Products' segment which comprises the subject goods. A summary is outlined in the table below showing the strong growth experienced by BlueScope.

⁵ [FY2021 Results Investor Presentation](#); [1H FY2022 Results Investor Presentation](#)

Performance indicator	1H FY2022	Change on 1H FY2021	FY2021	Change on 2020	BlueScope commentary
EBIT – underlying	A\$2,204.1M	315% increase	A\$1,723.8M	206% increase	Sales revenue of \$12,872.9M was 14% higher than FY2020, on higher global steel prices and strong demand across the portfolio, partly offset by the unfavourable impacts from a stronger Australian dollar exchange rate
Reported Net Profit After Tax	A\$1,643.5M	398% increase	A\$1,193.3M	1,137% increase	
Sales revenue from continuing operations	A\$9,418.7M	62% increase	A\$12,872.9M	14% increase	The 14% increase in sales revenue from continuing operations was primarily due to stronger selling prices driven by higher global steel prices, combined with the benefit of improved volumes from stronger demand, partly offset by the unfavourable impacts from a stronger Australian dollar exchange rate
Australian Steel Products - Underlying EBIT	A\$687.8M	165% increase	A\$674.3M	121% increase	The \$369.2M increase in underlying EBIT was largely due to: <ul style="list-style-type: none"> • higher steelmaking spread with higher domestic and export selling prices driven by stronger global steel prices combined with lower raw material costs • improved steel volumes, particularly in metal coated and painted products • higher contribution from export coke.
Australian Steel Products - Return on Invested capital	35.30%	19.7 point increase	23.60%	12.6% point increase	ROIC is the primary measure of performance across all business units and is a key focus for the Group.
Australian Steel Products - Sales revenue	A\$3,963M	45% increase	A\$5,848.5M	8% increase	The \$430.4M increase in sales revenue was primarily due to higher volumes on robust domestic activity, along with stronger prices on higher global steel prices, partly offset by the unfavourable influence of a stronger A\$:US\$ exchange rate
Australian Steel Products - Domestic sales volumes	1327.7 MT	13% increase	2487.7 MT	15% increase	FY2021 domestic sales volumes ex-mill increased 15% on FY2020 to 2,488kt; the highest since FY2008. <ul style="list-style-type: none"> • Increased volumes were driven by strength across building and construction, with activity levels supported by focussed sales and marketing initiatives, various government stimulus and infrastructure programs, redirected discretionary spending, and recovery work following recent storm / flood events. • FY2021 steel sales of COLORBOND® steel, TRUECORE® steel, TRU-SPEC® steel and Galvalume were the highest on record for the ASP business – assisted by both specific sales initiatives and broader segment demand growth.

By every possible measure, BlueScope's financial, economic and operating performance has improved beyond all reasonable expectations. Any suggestion of past material injury being attributed to Taiwan's HRC exports, or recurrence of material injury from Taiwan's future HRC exports, is without any reasonable basis and entirely fictional.

It is also worth noting that the outlook for the global and local steel markets are forecasted to tighten further, with increased demand, increase freight rates and continued supply chain disruptions, leading to continued steel shortages and increased prices. This is supported by BlueScope's own medium-term outlook of '... supportive industry and end use demand trends'⁶.

For the relevant Australian Steel Products segment which includes the subject goods, BlueScope has forecasted⁷:

- Expect a better result compared to 2H FY2021
- Similar to, or slightly higher domestic despatches on ongoing robust construction demand
- Stronger benchmark spreads
- Higher scrap and coating metal costs on global index pricing.

The 2022 half year results also forecast 'Underlying EBIT in 2H FY2022 is expected to be in the range of \$1.20 billion to \$1.35 billion – which would be second only to last half when looking back over BlueScope's 20-year listed history.'

Given the record growth experienced by BlueScope, which is forecasted to improve even further in the medium-term at the very least, the Commission cannot conclude that a recurrence of material injury is likely in the absence of measures.

2. REVIEW OF DATE OF SALE CLAIM

CSC is disappointed with the finding of the Commission's verification team that rejected the claim that the material terms of sale for both domestic and export sales, were best established by CSC's offered monthly base price and price extras as covered in its Price Guidance consistently released in CSC's ordinary course of business, which are reported by reference to "Price Month" in CSC's sales system. The verification team submits that the evidence submitted to the Commission '... was not sufficient to support the company's claimed date of sale. The evidence does not demonstrate when the material terms of sale including price and quantity are agreed and established at the claimed date.'

⁶ Ibid., page 41.

⁷ Ibid., page 39.

CSC requests that the Commission review and reconsider the verification team's preliminary finding.

As explained by CSC in its questionnaire response and during verification, it issues its base price and extras price premiums on a monthly basis covering all domestic and export customers. The monthly base price and extra premiums are reflective of forward / prospective price guidance. By way of example, CSC's July 2021 Price Guidance for Australian market was released in advance

[REDACTED]
[REDACTED]
[REDACTED], as the agreed prices reflect CSC's July 2021 price month. Same approach is adopted for domestic sales, [REDACTED]
[REDACTED].

Therefore, to ensure that export price and normal values are properly compared [REDACTED]
[REDACTED]

[REDACTED], selling prices formulated under and in the same Price Month can be properly compared as they are established using the same base price and price extras. In addition, [REDACTED]
[REDACTED].

[Redacted text includes confidential details of CSC's price setting mechanism]

As for any specific date in a month that must be ascertained so as to render our claimed date of sales to be accepted, we are of the view that it should be a moot issue because sales prices determined by the same Price Guidance remain the same throughout the whole corresponding period, irrespective of any specific date in that period.

The need to rely on the Price Month is particularly relevant in this review, due to the significant fluctuation of raw material cost and steel prices throughout 2021.

Yours sincerely

John Bracic