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17 August 2015

Director Operations 2  
Anti-Dumping Commission  
Level 35, 55 Collins Street  
Melbourne VIC 3000

**Review of hollow structural sections exported by Dalian Steelforce**

This submission is made on behalf of Dalian Steelforce Hi-Tech Co., Ltd. (Dalian Steelforce) in response to the publication of the Anti-Dumping Commission's (the Commission) Statement of Essential Facts Report No. 285 (SEF 285) on 28 July 2015 into the review of certain hollow structural sections (HSS) exported by Dalian Steelforce.

**1. Lack of procedural fairness**

At the outset, Dalian Steelforce wishes to repeat its serious concerns in terms of the lack of procedural fairness and transparency in this review with regards to the information relied upon to determine the benchmark hot-rolled coil (HRC) prices. The Commission continues to refuse to place the HRC pricing data and name of the data provider on the public record, notwithstanding the fact that there is no claim on the public record of confidentiality or adverse impact from its publication. This is in direct conflict with the Commissioner's obligations in maintaining a public record in accordance with section s.269ZJ of the *Customs Act 1901* (the Act).

Dalian Steelforce reiterates its view that if the data is sourced from a reputable independent publication, then that data would be available to any party that was prepared to subscribe to the relevant service. The publication of this data would in no way have an adverse impact on any parties' business or commercial interests in this review given that:

- a) it relates to HRC products and not the HSS goods under review; and
- b) it identifies HRC selling prices in the Korean and Taiwanese domestic markets.

Likewise, there can be no legitimate claim of confidentiality by any interested party to the review given that:

- a) the data relates to HRC selling prices in the Korean and Taiwanese domestic markets; and
- b) the data is available to any party wishing to subscribe to the relevant series.

Therefore, if a party has made a claim of confidentiality or adverse impact in this review, Dalian Steelforce contends that the Commissioner is obliged to indicate to the party that he disagrees with the claim in accordance with s.269ZJ(5)(b) of the Act. Following that, should the party fail to agree to the inclusion of the information on the public record, the Commissioner should disregard the information.

As noted in our earlier submission of July 2015, the Federal Court has interpreted the requirements of s.269ZJ of the Act in *Thai Pineapple Canning Industry Corp Ltd v Minister for Justice & Customs*.

In that case, the claimed breach of natural justice revolved around the identity of an exporter and the particular characteristics of their domestic sales of like goods. Of particular relevance in that case are Buchanan J<sup>1</sup> observations and interpretations of the Commissioner's obligations in maintaining a public record:

89 *Counsel for the Minister argued that the requirements of natural justice had been substantially curtailed by the confidentiality requirements of the Act. It was submitted that those requirements amounted to an exhaustive statement of any requirement to afford procedural fairness. There are two principal difficulties with this contention. The first is that the Act contains no express statement to support a conclusion that the provisions relied upon have extinguished such an important right. The second is that the provisions in question seem to me to be directed at quite different objectives. Indeed, their focus is less on the imposition of confidentiality restrictions, although the need for confidentiality is a premise of the whole scheme, than on the need to maintain a very high degree of transparency consistently with that premise.*

91 *Far from emphasising any overruling requirement of confidentiality, s.269ZJ imposes an obligation on the CEO to ensure that a claim for confidentiality does not result in inadequate information to interested parties except in very limited circumstances.*

In the absence of a legitimate claim for confidentiality then, and by refusing to place the relevant benchmark data and identity of the data provider on the public record, the Commission is failing to provide procedural fairness to Dalian Steelforce and restricting its ability to properly defend its interests with respect to this particular matter.

## **2. Lack of transparency**

In addition to the lack of procedural fairness, Dalian Steelforce is concerned with the lack of transparency surrounding the determination of the HRC benchmark and the impact that this

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<sup>1</sup> *Thai Pineapple Canning Industry Corp Ltd v Minister for Justice & Customs* [2008] FCA 443.

has on the ability of exporters more generally, to set export prices that are not dumped and to purchase HRC at prices which are not subsidised.

In the original investigation into HSS exported from China (REP 177), the Commission based its determination of black HRC prices on a basket of prices from cooperating exporters from other countries subject to investigation. In determining a galvanised HRC price, the Commission relied on Steel Business Briefing (SBB) published data and informed interested parties of the source of the information used in its assessment.

In subsequent duty assessments [redacted] [name of entity], the Commission again relied on the movement in SBB South East Asia HRC pricing series to index the originally determined basket of HRC prices from cooperating exporters. It is worth noting that the most recent duty assessment finalised by the Commission covered the importation period of 3 January 2014 to 4 June 2014, which represents half of the current review period.

In the recently completed accelerated review (case 274) of zinc coated (galvanised) steel by Jiangyin Zongcheng Steel Co., Ltd (Zongcheng), the Commission again relied on SBB's South East Asia HRC pricing series after concluding that '*[t]he Commissioner considered this data reasonable as it uses a composite of other countries to form the benchmark in the same way as the benchmark for REP 190 utilised combined Korean and Taiwanese costs.*'<sup>2</sup> Again, this finding by the Commission related to the first half of 2014 and a significant portion of the current review period.

In each of the above identified cases, exporters were informed of the source of the benchmark data and able to adjust their export prices and HRC purchase prices to ensure that goods were not exported at dumped or subsidised prices. However, SEF 285 proposes determining subsidisation and normal values on information which is hidden from Dalian Steelforce, and as such, prevents it from effectively exporting its goods at undumped and unsubsidised prices.

For example, were Dalian Steelforce to export HSS in the future at the preliminary normal values determined in SEF 285, it would have no means of knowing or ensuring that such prices were undumped as it would have no visibility of the monthly movement in the HRC benchmark price and the subsequent impact on the constructed normal value. Likewise, the importing customers of Dalian Steelforce's HSS exports would have no way of establishing or providing evidence to support the amounts of the normal value and countervailable subsidy in applying for a duty assessment, as required by s.269W(1) and s.269W(1A) of the Act.

In an interview published in the Australian Industry Group magazine<sup>3</sup>, the Anti-Dumping Commissioner stated that "an effective anti-dumping jurisdiction for Australia must hold the following key principles at its core: transparency; evidence based/factual decision making; and independence...". Dalian Steelforce completely agrees with the

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<sup>2</sup> Report 274 – Accelerated review of zinc coated (galvanised) steel – Zhongcheng; page 13.

<sup>3</sup> Industry Edition 61, page 36

Commissioner's view and believes that transparency can only be assured where all interested parties to an inquiry have equal access to relevant information. Likewise, transparency is a primary element to evidence based decision-making as it ensures that the decision making process and the evidence relied upon are subject to scrutiny and accountability.

It is clear however that SEF 285 is critically lacking in transparency and accountability of the Commission's decision-making process and the evidence relied upon. The primary concern being that the Commission's proposed approach of relying on information that is concealed from interested parties will set a precedent and encourage an increase in illegitimate claims of confidentiality.

### 3. Australian industry's inconsistent views on SBB HRC data

A review of previous public statements by the Australian industry members confirms Dalian Steelforce's view that their concerns raised in submissions to this review with respect to the reliability of the benchmark information previously relied upon by the Commission, are disingenuous and clearly self-serving.

In its presentation to the ASX of its financial results for the first half of financial year 2013<sup>4</sup> (**Attachment 1**), BlueScope Steel provides an overview of 'HRC price benchmarks' based on SBB East Asian HRC (CFR) prices (US\$/t). BlueScope states that:

*Steel Business Briefing prices continue to be a reasonable public benchmark for BlueScope's Asian HRC sales, and an influence on domestic commoditised product pricing...*

In that same presentation on page 44, BlueScope provides a graphical representation of the spread between HRC steel prices and raw material prices as a demonstration of period to period movements in relevant prices and the impact on BlueScope's profitability of related products. SBB East Asia HRC pricing data is used as the basis for HRC prices and the calculated spread (**Attachment 2**).

In its submission (**Attachment 3**) to the recently terminated dumping investigation into zinc coated (galvanised) steel exported from India and Vietnam<sup>5</sup>, BlueScope continued to reference SBB East Asian HRC prices as a reasonable and reliable measure of HRC supplied and sourced in the Asian region. In that case, BlueScope relied on the SBB HRC pricing data for the purposes of estimating constructed normal values.

In its submission to the Trade Measures Review Officer's (TMRO) review of HRC exported from Japan, Korea, Malaysia and Taiwan<sup>6</sup> (**Attachment 4**), BlueScope acknowledges that SBB's East Asia CFR pricing series relates to imports of HRC into Vietnam, Philippines, Thailand, Indonesia, and South Korea.

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<sup>4</sup> <http://www.asx.com.au/asxpdf/20130218/pdf/42d2dcrwpcdmr5.pdf>

<sup>5</sup> EPR 249; Record no. 30; BlueScope submission; page 2.

<sup>6</sup> <http://www.adreviewpanel.gov.au/PastReviews/Documents/BlueScopeSubmission.pdf>; page 2.

In its submission to the reinvestigation of HRC exported from Japan, Korea, Malaysia and Taiwan<sup>7</sup> (**Attachment 5**), OneSteel Manufacturing Pty Ltd (OneSteel) references SBB East Asia HRC (CFR) prices and relies on it for its analysis as a reasonable and reliable measure of HRC prices. It goes on to provide its views in response to the issue identified by the TMRO in his review, about the appropriate methodology for adjustment of prices based on information post-investigation period. It states:

*OneSteel submits that it was patently reasonable that it had regard to the movement in the East Asian HRC price.*

In its original application that led to the imposition of measures on HSS exported from China (**Attachment 6**), OneSteel noted<sup>8</sup>:

*Steel Business Briefing provides a service to the global steel industry on news, prices, research and events. It is a highly regarded benchmark publication to the global steel industry and is widely relied upon by steel mills, traders, distributors and stock holders for current pricing and events.*

Therefore, given these previous views of the Australian industry members about the strong reliability of SBB data and the relevance of SBB's East Asian HRC pricing series as a relevant measures of contemporary prices in the region, Dalian Steelforce submits that conflicting and contradictory statements made to this review by the Australian industry should be seen as self-serving assertions and given no weight in the Commission's determination of appropriate benchmark prices.

#### **4. OneSteel's proposed source of HRC pricing information**

As noted, the Commission has refused to place on the public record the HRC data relied upon for determining the benchmark HRC prices or the name of the data provider. SEF 285 simply advises that the data relied upon is from a reputable independent source.

To assist in identifying the source of the HRC data, Dalian Steelforce has contacted a number of reputable steel data providers and inquired whether they compiled and offered via subscription, individual Korean and Taiwanese domestic HRC pricing data. None of the original providers contacted published such series.

Dalian Steelforce notes that in the accelerated review of zinc coated (galvanised) steel (case 274), BlueScope proposed the use of Korean HRC prices published by MEPS International (MEPS). MEPS were contacted and they advised that they did publish and provide Korean and Taiwanese HRC prices to subscribers. Analysis of MEPS HRC data (**Confidential Attachment 7**) reveals almost identical quarterly indexed rates to that calculated by the Commission, and as such, Dalian Steelforce makes this submission on the assumption that the data relied upon by the Commission was sourced from MEPS.

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<sup>7</sup> EPR 209; Record no. 004; PAGES 5-6.

<sup>8</sup> EPR 177; Record no. 003; Page 58.

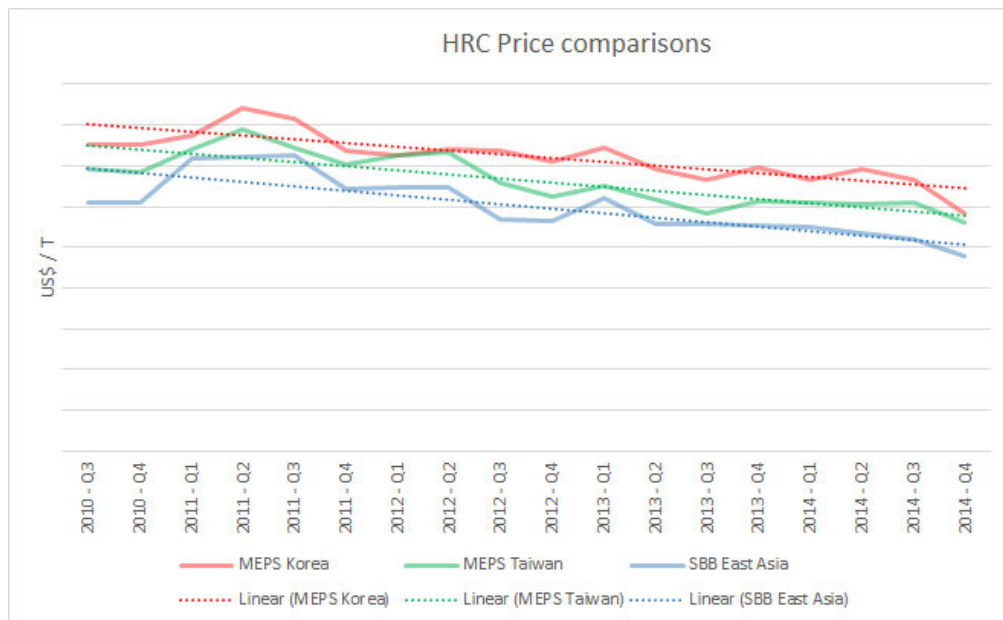
All charts in this submission which refer to Korean and Taiwanese HRC prices are based on data sourced from MEPS. MEPS have confirmed that subscribers are able to publicly refer to charts derived from their data and should clearly reference MEPS as the source of the actual data. If the data provided by OneSteel and relied upon by the Commission was sourced from MEPS, it is clear then that neither OneSteel nor the Commission made any reasonable attempts to establish whether the data (or charts as replacement) or the identity of the data provider were able to be placed on the public record, and contradicts the Commission's view that the source of the information is proprietary information.

## 5. Appropriateness of MEPS Korean HRC prices

### 5.1 Improper grounds for departing from SBB HRC prices to MEPS HRC prices

SEF 285 explains and justifies the change in the source of data for indexation due to *'the relatively higher volatility of the East Asia HRC price'*. In its submission to case 267<sup>9</sup>, OneSteel submitted that the volatility in the East Asia HRC price was due to the sales of HRC being on the spot market, whereas domestic HRC prices *'are typically based upon longer-term agreements'*.

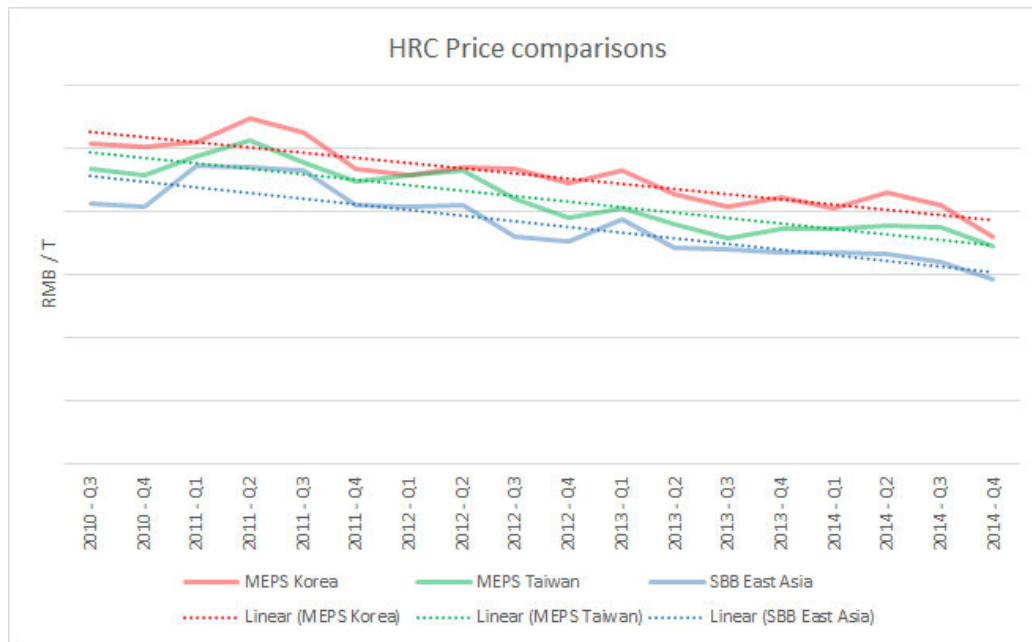
Firstly, a comparison of SBB East Asia HRC prices with MEPS Korean and Taiwanese HRC prices denominated in US dollars highlighted in the chart below shows no obvious signs of greater volatility across the quarterly series between September quarter 2010 and December quarter 2014. In fact the depicted trend lines for each series are virtually identical, with the only obvious difference being the various price points.



When the HRC prices are denominated in Chinese Renminbi (RMB) as shown in the chart below, it is evident that the MEPS Korea prices show considerable more volatility across 2013 and 2014 than other prices.

<sup>9</sup> EPR 267; Record no. 11; page 3.





Secondly, OneSteel simply asserts that SBB East Asia HRC Import prices are subject to greater volatility as they reflect spot market export prices, and that domestic prices, which in their view reflect prices to long-term purchasers, are a more appropriate source for indexation of HRC benchmarks. In its application to the original investigation (case 177), the Australian industry submitted that the most appropriate HRC benchmark was Japanese domestic prices (Attachment 6).

The application states<sup>10</sup>:

*The industry considers that a domestic-price for HRC is considered a better representation of the raw material input price for a long-term purchaser of HRC than using an export CFR price (that is more representative of 'spot' pricing than longer-term, contractual pricing arrangements).*

...

*This price is considered the most appropriate benchmark price for raw material input steel as:*

- *the Japanese industry is considered efficient;*
- *the industry does not suffer from high protection barriers; and*
- *the price is considered the most reliable domestic price available from published sources.*

It is noted that OneSteel provides no supporting evidence for its assertion that East Asia import prices are highly volatile relative to HRC domestic prices such as Japan. It is also noted that SEF 285 contains no assessment or investigation into this assertion, but instead appears to give weight to it without any basis or reasoning.

<sup>10</sup> EPR 177; Record no. 003; Page 58.

Dalian Steelforce contends that a comparison of SBB Japanese domestic HRC prices, which OneSteel agrees reflects a reasonable measure of longer-term purchase prices, with SBB East Asia Import HRC prices, clearly shows a parallel trend in the indexed quarterly rates based on the movement in quarterly HRC prices during the 2014 review period with the quarterly HRC price in the last quarter of the original investigation period (June quarter 2011).

The table below which is based on SBB HRC prices included at **Confidential Attachment 8**, refutes OneSteel's assertions and shows very similar indexed rates between Japanese domestic FOT prices and East Asia CFR Import prices, with Japanese domestic prices experiencing greater falls in two of the four quarters during the review period.

[CONFIDENTIAL TABLE REMOVED]

Third, the primary aim of the Commission in establishing a benchmark price for HRC in China is to arrive at a price for HRC that is representative of a competitive market cost in China during the review period. In doing so, the Commission is guided by s.269TACC(4) of the Act and Article 14(d) of the WTO Subsidies and Countervailing Agreement (SCM). In considering the question of what types of alternative benchmarks could be relied upon in a manner consistent with Article 14(d) of the SCM, the Appellate Body found in US – Softwood Lumber IV<sup>11</sup> that, where an investigating authority relies on an external benchmark, *"it is under an obligation to ensure that the resulting benchmark relates or refers to, or is connected with, prevailing market conditions in the country of provision, and must reflect price, quality, availability, marketability, transportation and other conditions of purchase or sale, as required by Article 14(d)."*

The Appellate Body further *"underscored the importance of making appropriate adjustments to ensure that alternative benchmarks reflect prevailing market conditions in the country of provision"* which require the adequacy of remuneration to be determined in relation to prevailing market conditions for the goods in questions in the country of export (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).

However the Commission does not appear to have undertaken any reasonable assessment or examination of OneSteel's assertion that SBB East Asia HRC prices are indicative of spot prices or whether the proposed MEPS data, which OneSteel considers reflects longer-term agreements, are a reasonable indicator or reference to prevailing market conditions for Dalian Steelforce's purchases of HRC on the domestic market in China. It is noted that the Commission has not requested or sought any additional information or understanding of Dalian Steelforce's HRC supply and purchasing arrangements, to enable it to determine whether external spot prices or external longer-term contract prices are a more appropriate and accurate measure of comparable prices in China.

For the record, Dalian Steelforce [REDACTED]  
[REDACTED] [confidential purchasing details]. During the review period, Dalian Steelforce sourced HRC from [REDACTED] different Chinese suppliers. The decision on which

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<sup>11</sup> Appellate Body Report, WT/DS257/AB/R, para 106, page 43



supplier to source from in any given month is driven by two primary factors,

[REDACTED]  
[REDACTED]  
[REDACTED] [confidential purchasing details].

In terms of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [confidential purchasing details].

As shown in its list of HRC purchases during the review period, approximately

[REDACTED]  
[REDACTED]  
[REDACTED] [confidential purchasing details].

Therefore, Dalian Steelforce contends that there is no information on the public record or presented in SEF 285 which justifies the change from the Commission's consistent use of SBB East Asia HRC pricing to MEPS Korean and Taiwanese HRC prices. SEF 285 provides no explanation or reasoning how the MEPS HRC series, which OneSteel considers reflects prices based on longer-term agreements, is an appropriate measure or comparable basis for prevailing market conditions in China for Dalian Steelforce's purchases of HRC during the review period.

#### 5.2 MEPS Korean HRC prices are not appropriate for benchmarking or indexation

It is noted that the Commission does not appear to have undertaken any comparative assessment or analysis of the MEPS Korean and Taiwanese HRC prices to available relevant and reliable information to assess whether the proposed data series is accurate and appropriate for the purposes of establishing an actual HRC benchmark or indexed benchmark. Instead the Commission appears to have simply accepted the data presented by OneSteel as being reliable for the intended purpose.

Paragraph 7 of Annex II of the Anti-Dumping Agreement outlines an obligation the investigating authority has to comply with in relying on information from secondary sources. Whilst an equivalent annex does not appear in the SCM, the conditions and evidentiary rules set out in Annex II has been interpreted as applying equally to the SCM<sup>12</sup>.

In Beef and Rice<sup>13</sup>, the Panel found that an investigating authority can only be in a position to judge correctly whether certain information is the best information available 'if it has made an inherently comparative evaluation of the "evidence available"'.  
The Panel added:

<sup>12</sup> Appellate Body Report, Mexico –Anti-Dumping Measures on Beef and Rice, WT/DS295/AB/R, pages 290-295.

<sup>13</sup> Panel Report, Mexico – Anti-Dumping Measures on Beef and Rice, WT/DS295/R, para 7.166, page 144.

*Finally, and perhaps most importantly, such a conclusion is evident from the requirement set forth in paragraph 7 of Annex II that, in case the authorities have to base their findings on information from a secondary source they should do so with special circumspection, and check, where practicable, the information from other independent sources at their disposal, such as published price lists, official import statistics and customs returns and from the information obtained from other interested parties during the investigation.*

The Appellate Body<sup>14</sup> agreed with the Panel, explaining that:

*[T]he agency's discretion is not unlimited. First, the facts to be employed are expected to be the 'best information available'.... Secondly, when culling necessary information from secondary sources, the agency should ascertain for itself the reliability and accuracy of such information by checking it, where practicable, against information contained in other independent sources at its disposal, including material submitted by interested parties. Such an active approach is compelled by the obligation to treat data obtained from secondary sources 'with special circumspection'.*

In Dalian Steelforce's view, had the Commission properly examined the MEPS data and evaluated it against relevant information available to the Commission, it would have clearly found that the proposed data was not suitable for benchmarking or indexation purposes.

Dalian Steelforce has reviewed the MEPS Korea HRC prices and makes the following observations which should cause the Commission to doubt its reliability.

1. The average MEPS Korean HRC price during the period 1 April 2011 to 31 March 2012 was [REDACTED]

(Refer to **Confidential Attachment 9**).

2. The average MEPS Korean HRC price during the period 1 July 2010 to 30 June 2011 was [REDACTED]

(Refer to **Confidential Attachment 9**).

3. The table below compares the average quarterly MEPS Korean HRC prices

(Refer to **Confidential Attachment 9**).

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<sup>14</sup> Appellate Body Report, Mexico –Anti-Dumping Measures on Beef and Rice, WT/DS295/AB/R, para 289, pages 100-101.

[CONFIDENTIAL TABLE REMOVED]

4. The Commission would be fully aware that the Korean steel industry is dominated by a handful of large integrated group of companies that hold 100% ownership and control of downstream processing and coating businesses and end-user operations. In effect, the Korean steel producers that manufacture the HRC feed material, also manufacture the processed galvanised coil via related entities and sell the finished goods to related downstream end-users involved in the automotive and construction sectors.

As a result, unlike other Asian markets such as China, Taiwan, Thailand, Malaysia, Indonesia and Vietnam, there are very few re-rollers of HRC in Korea. For this reason there are few truly arms-length unrelated sales of HRC in Korea to processing steel producers. Therefore, the majority of domestic HRC sales in Korea are not considered representative of arms-length transactions.

Dalian Steelforce understands that it is for this reason that none of the other major independent and reputable steel data providers offer and publish Korean HRC pricing data. The population of legitimate arms-length transactions of HRC sales between Korean steel producers and manufacturing entities is limited relative to the overall population of HRC sales in the domestic market.

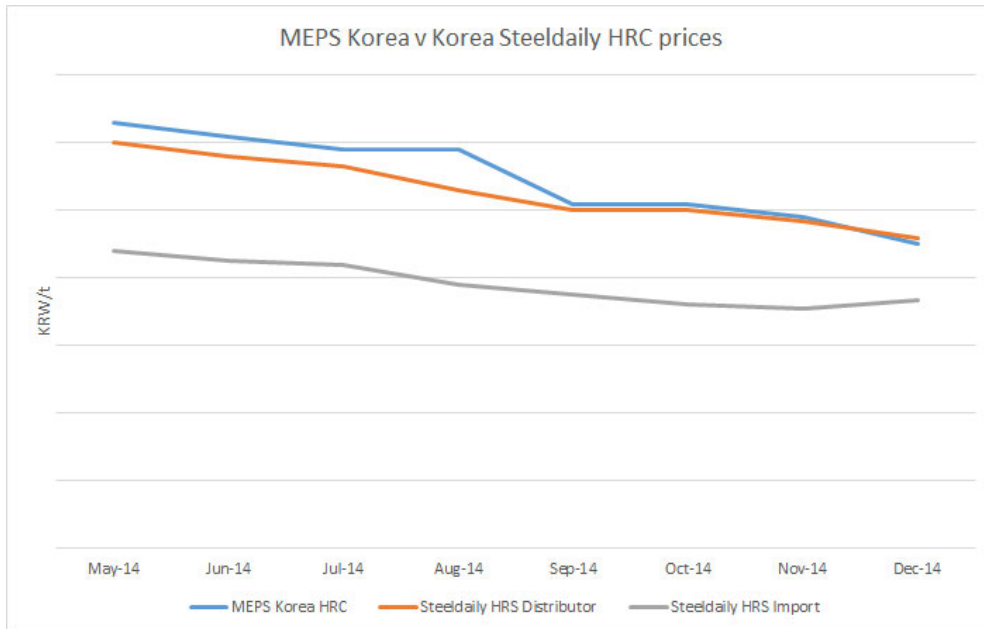
This is further supported by the publication of weekly steel prices in Korea by the primary source of steel data, Korean Steeldaily. **Confidential Attachment 10** includes a relevant page from Steeldaily's website which shows various HRC and hot-rolled sheet (HRS) pricing from the week ending 30 May 2014 to the week ending 19 December 2014.

The first column of prices identify [REDACTED] list prices for 3mm, SS400 grade HRC (KRW/kg). Once again, it is Dalian Steelforce's understanding that only the list prices and not [REDACTED] 'net' prices are published on grounds of confidentiality, due to the small number of truly independent and unrelated processing entities that source from the steel producers.

The second column of prices relates to net distributor prices of 3mm, SS400 grade HRS products. These Korean distributors cut purchased HRC into required sheet dimensions and hold stock of HRS for supply to end-user customers. Finally, the third columns of prices shows import prices for 3mm, SS400 grade HRS into Korea.

The chart below provides a comparison of average monthly HRC prices from MEPS and Korean Steeldaily and shows that the MEPS data very closely reflects the published distributor prices in the Korean domestic market and is consistently above the corresponding import prices (**Confidential Attachment 11**). This appears to be further supported by MEPS International Steel Review (**Confidential Attachment 12**)

publication which identifies the 'high' prices referenced in the Korean HRC data as '*ex-stock mill sales through selected outlets.*' It is clear then that MEPS domestic Korean HRC prices reflect stockist/distributor prices and not prices from the HRC producers to processing manufacturers of HSS.



- It is also evident from MEPS published regional HRC prices in its International Steel Review publication, that Korean HRC prices are inconsistent with almost all other regional markets other than US and Canada, which included amounts for surcharges. MEPS Korean HRC prices were 7% higher than Japanese domestic prices and approximately 11% higher than Taiwanese and EU average domestic prices.

In summary, Dalian Steelforce submits that a detailed evaluation of MEPS Korean HRC prices against available relevant information shows that the data series is not a reliable measure of net domestic selling prices from Korean steel producers to steel manufacturing processors. The MEPS data appears to more closely reflect domestic selling prices from stockist/distributors into the market. Accordingly, the Commission is requested to disregard the MEPS HRC data and revert to the more reliable measure of HRC in the Asian region by relying on SBB East Asia HRC prices.

## 6. Alternative reliable sources for determining benchmark prices

### 6.1 SBB East Asia HRC CFR Import price

Dalian Steelforce contends that the primary and preferred source for indexing of HRC benchmark prices is SBB East Asia CFR Import prices. The grounds for supporting the continued use of this HRC pricing series are:

- The Commission's findings in relevant duty assessments since the imposition of duties on HSS which relied on and considered SBB East Asia HRC prices as reasonable and reliable for indexing of the original benchmark prices. In the case of the most recent duty assessment which covers approximately half of the current

review period (3 January 2014 to 2 June 2014), the Commissioner has already provisionally ascertained (in accordance with s.269X(5) of the Act) and the Minister has ascertained (in accordance with s.269(Y)(1) of the Act), the variable factors relevant to the determination of duty payable under the Dumping Duty Act in respect of each consignment (being export price, normal value and the amount of countervailable subsidy).

It would be a highly inconsistent and illogical outcome if the Commission now recommended that the Minister ascertain different variable factors on the basis of a different methodology to that previous relied upon for determining the actual amounts of duty payable for each consignment. It is also noted that the Australian industry members had opportunity in these duty assessment inquiries to supply information to the Commission relevant to the consideration of the applications in accordance with s.269X(2) of the Act.

2. The Commission and the Minister rejected the use of MEPS Korean HRC pricing information in the accelerated review of zinc coated (galvanised) coil exported by Jiangyin Zongcheng (case 279) and instead based its indexation of HRC benchmark prices on SBB East Asia HRC prices after concluding *'[t]he Commissioner considered this data reasonable as it uses a composite of other countries to form the benchmark in the same way as the benchmark for REP 190 utilised combined Korean and Taiwanese costs.'*

Dalian Steelforce again considers that it would be highly inconsistent for the Commission to make recommendations to the Minister on the basis of indexed HRC benchmark prices that conflicted with recent findings by the Minister.

3. The Australian industry members have regularly identified SBB data as a reliable source of regional pricing and in the case of BlueScope, referenced the East Asia Import prices as *'a reasonable public benchmark for BlueScope's Asian HRC sales, and an influence on domestic commoditised product pricing'*.
4. The Commission relied on SBB domestic Shanghai HRC pricing data in the original investigation (case 177) to calculate benchmark prices for pre-galvanised HRC by adjusting the black HRC benchmark prices by reference to the difference in SBB prices for black and hot-dipped galvanised HRC. It would be erroneous and inconsistent for the Commission to use an entirely different dataset to index the pre-galvanised HRC benchmark which itself was indexed using an SBB HRC pricing series.

#### 6.2 SBB Japan domestic HRC prices

As noted earlier, the Australian industry has identified Japanese domestic HRC prices as *'the most appropriate benchmark price for raw material input steel'*. Submitted HRC data shows that Japanese domestic prices and East Asia Import prices have experienced similar quarterly

movements between the last quarter of the original investigation period and corresponding quarters in the current review period.

Whilst Dalian Steelforce does not consider that actual HRC prices in the Japanese domestic market are a reasonable indicator of Asian regional pricing or reflect prevailing market conditions in China, the data is considered reasonable for the purposes of establishing quarterly indexed rates to be applied to original HRC benchmark prices.

## 7. Methodology used by the Commission to calculate indexed rates

Notwithstanding the identified deficiencies and lack of reliability in the MEPS Korean HRC prices, Dalian Steelforce raises the following observations and issues with respect to the Commission's approach to determining the quarterly indexed rates.

### 7.1 HRC prices to be denominated in Chinese RMB

The original basket of prices from cooperating exporters used to determine the HRC benchmarks were denominated in Chinese RMB and used to replace exporter's HRC purchase costs. In the most recent duty assessment into Dalian Steelforce's exports of HSS, the Commission calculated the quarterly index rates using HRC prices denominated in Chinese RMB. This approach is considered appropriate as it accurately reflects and consistently applies the movement of the relevant HRC prices in the currency of the determined HRC benchmarks from the original investigation period.

SEF 285 provides no explanation of the approach used by the Commission in this review to the calculation of the quarterly indexed rates and whether the source HRC prices were denominated in the currency of the benchmark (RMB) or an alternative currency.

A review of MEPS Korean and Taiwanese HRC prices (**Confidential Attachment 13**) shows that the Commission's quarterly index rates appear to be based on US dollars and not Chinese RMB. After converting the MEPS HRC prices to Chinese RMB, it is evident that the quarterly indexed rates are significantly lower than those determined by the Commission. The table below provides a comparison of the US dollar and Chinese RMB quarterly indexed rates based on MEPS Korea and Taiwan HRC prices.

[CONFIDENTIAL TABLE REMOVED]

Dalian Steelforce requests the Commission to ensure its approach is consistent with that used in the most recent duty assessment which covers almost half of the 12 month review period, and calculate the quarterly indexed rates using HRC prices denominated in Chinese RMB so that they are accurately and consistently applied to the HRC benchmark prices which are denominated in Chinese RMB.

### 7.2 Use of high and low published prices for indexation

Dalian Steelforce notes that the MEPS HRC pricing series refers to high and low prices. SEF 285 provides no explanation whether the high or low prices were used to calculate the quarterly indexed values or whether average prices were initially calculated. This is particularly relevant given that MEPS explains in its notes to the relevant HRC prices that



*'the high price refers to ex stock mill sales through selected outlets'* [emphasis added]. This again appears to reinforce Dalian Steelforce's view that the MEPS data is reflective of distributor sales into the market rather than sales by the steel manufacturer.

### 7.3 Weighting of Korea and Taiwan HRC prices

SEF 285 provides no explanation of how the various Korean and Taiwanese HRC pricing data was used to achieve the 'weighted' quarterly index rates, consistent with the approach used to determine the 'weighted' basket of prices from the original investigation.

## **8. Methodology for determining replacement HRC costs**

In SEF 285, it is explained that in the original investigation the Commission replaced Chinese exporter's HRC costs:

*... with reference to a 'benchmark' determined to be the weighted average of domestic HRC costs incurred by verified selected and cooperating HSS exporters from Korea, Malaysia and Taiwan, said to be at comparable terms of trade and conditions of purchase to those observed in China, adjusted to account for:*

- *the increased purchase price of pre-galvanised HRC over black HRC, with reference to the quarterly average purchase price difference between the Steel Business Briefing (SBB) China domestic Shanghai HRC price and the China domestic Shanghai pre-galvanised HRC price;*
- *differences in delivery terms observed in China (ex-works, delivered); and*
- *the reduced cost of narrow strip in China (for exporters that purchase narrow strip – not applicable to Dalian Steelforce).*

The Commission goes on to state in SEF 285 *'that it considers it is appropriate to use a similar benchmarking method to that followed in Investigation 177'* and highlights that *'Dalian Steelforce's HRC costs have been uplifted by the difference between the price actually paid by Dalian Steelforce for that product and the price of a comparable competitive market benchmark price for that product (taking into account the applicable delivery terms and type of steel purchased).'*

Dalian Steelforce does not consider that the approach adopted in this review is similar to that followed in the original investigation and disagrees that the HRC costs have been uplifted by the difference between the price actually paid and the price of the comparable competitive market benchmark price. It is Dalian Steelforce's understanding that in the original investigation, the Commission uplifted each individual exporters' HRC costs to the determined HRC benchmark taking into account necessary adjustments for galvanised product, delivery terms and cost of narrow strip.

Uplifting the HRC costs by the difference between the price actually paid and the price of the comparable benchmark price as the Commission has outlined in SEF 285, would in fact result in the quarterly benchmark prices being the replacement HRC costs. However, it is Dalian Steelforce's understanding that the approach adopted in SEF 285 uplifts the respective monthly HRC costs by the percentage difference between the indexed benchmark HRC price and the actual purchase HRC cost over the entire 12 month review period. In

doing so, it is abundantly clear as shown in the table (**Confidential Attachment 14**) below that the Commission's calculations of the replacement HRC costs are erroneous as they represent costs significantly above the 'comparable competitive market benchmark price'.

[CONFIDENTIAL TABLE REMOVED]

This is further evident from the following:

- replacement black HRC costs range from [REDACTED] the determined quarterly black HRC benchmark prices;
- replacement pre-galvanised HRC costs range from [REDACTED] the corresponding quarterly pre-galvanised HRC benchmark prices;
- in the months of [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [summary of adjusted HRC costs], it is clear that the Commission's preliminary calculations are faulty; and
- the replacement pre-galvanised HRC prices show an increasing trend over the 2014 review period, when global, regional and domestic HRC prices have been decreasing, irrespective of which set of data is used.

Dalian Steelforce submits that it is unreasonable for the Commission to replace its HRC costs with amounts that are significantly above the prevailing and determined quarterly benchmark HRC prices. As noted by the Commission in SEF 285, the reason for replacing Chinese exporter's costs in accordance with Regulation 43 of the *Customs Regulation 2015* and the *Customs (International Obligations) Regulation 2015* (the Regulations), is because HRC costs were found to not reasonably reflect a competitive market cost associated with the production or manufacture of the goods.

Therefore, in replacing Dalian Steelforce's HRC costs pursuant to Regulation 43 of the Regulations, it is necessary for the Minister to ensure that the replacement costs reasonably reflect competitive market costs associated with the production and manufacture of the goods. The competitive market costs ought to be the relevant quarterly benchmark HRC prices for the review period, which are based on the original benchmark prices and indexed to reflect changes in HRC prices since the original investigation period.

This is consistent with the Commission's practice and approach utilised in the recent accelerated review of zinc coated (galvanised) steel as highlighted in Report 274<sup>15</sup>;

*The percentage difference in the SBB data was then applied to the original surrogate data from REP190 to form the new HRC benchmark for this Accelerated Review. This*

<sup>15</sup> Report 274 – Accelerated review of zinc coated (galvanised) steel – Zhongcheng; page 13.

*benchmark was then applied to the purchases of HRC made by Zongcheng throughout the investigation period.*

Finally, Dalian Steelforce queries the statement in SEF 285 that the approach adopted took into account the ‘*type of steel purchased*’. As confirmed by the Commission, Dalian Steelforce purchased pre-galvanised HRC during the review period. It is noted that neither SBB nor MEPS publish pre-galvanised HRC pricing data. Therefore it is unclear to Dalian Steelforce how the Commission’s pre-galvanised benchmark prices were able to be determined by reference to a price difference between the SBB China domestic Shanghai HRC price and the China domestic Shanghai pre-galvanised HRC price.

Dalian Steelforce notes that both SBB and MEPS publish data with respect to hot-dipped galvanised (HDG) coil. However, given that HDG is sold at a substantial premium to pre-galvanised coil due to the greater amount of zinc involved in manufacturing, Dalian Steelforce considers that it would be unreasonable to calculate the quarterly indexed rates and benchmark prices on published HDG prices.

## **9. Determination of public bodies**

At the outset, Dalian Steelforce supports and welcomes the Commission’s decision to reassess whether relevant HRC suppliers were public bodies for the purposes of reviewing the amount of countervailable subsidy received in respect of the goods.

In SEF 285, the Commission makes a preliminary finding that ‘*the GOC exercises meaningful control over all but one of the SIEs that supplied Dalian Steelforce HRC during the review period, and this serves as evidence that the relevant entities possesses governmental authority and are therefore public bodies*’. Dalian Steelforce does not consider that the Commission has undertaken a proper assessment and evaluation of relevant information and contends that the Commission continues to fall well short of the evidence threshold required to establish that an entity meets the definition of public body as interpreted by the Appellate Body and the ADRP.

Firstly, it is important to highlight that SEF 285 contains a number of instances where statements are either incorrectly attributed or where the attributed party is unclear. For example, the quote at the top of page 29 is incorrectly attributed to the Appellate Body when it was in fact made by the Panel in DS437. On that same page and again on page 31, the Commission attributes statements from DS436 to the WTO Dispute Settlement Body (DSB). Those statements should correctly be attributed to the Panel in that case and not the DSB, which is a body ‘*made up of all member governments and usually represented by ambassadors or equivalent*’<sup>16</sup>.

Turning to more substantive issues, Dalian Steelforce considers that the Commission has not established that any of the relevant HRC suppliers were entities that possessed, exercised or vested with governmental authority. It relies merely on articles from Interim Regulations which outline the functions and obligations of the State-owned Assets Supervision and

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<sup>16</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm)

Administration Commission. The Commission argues that these Interim Regulations demonstrate either direct or indirect ownership and ‘are evidence of a closer link between the GOC and the SIEs that supplied HRC to Dalian Steelforce during the review period than mere ownership and are evidence of ‘meaningful control’ over those entities.’ In Dalian Steelforce’s view, this finding and the evidence relied upon, does not fulfil the requirement to demonstrate that the HRC suppliers were possessed, exercised or vested with governmental authority, as interpreted by the Appellate Body and the ADRP.

In its review of zinc coated (galvanised) steel and aluminium zinc coated steel exported from China<sup>17</sup>, the ADRP concluded:

*There is no material in the HSS reinvestigation or which is relied upon by Customs in Report 193 which demonstrates that there has been a delegation of governmental authority to the SIEs to impose State-mandated policies on participants in the iron and steel industry in China. The material also does not, in my view, support a finding that the control exercised over the SIEs by the GOC was such that they were “instruments” of the GOC.*

The ADRP’s view is consistent with the Appellate Body’s interpretation in DS379<sup>18</sup> which found that:

*... apart from an express delegation of authority in a legal instrument, the existence of mere formal links between an entity and government in the narrow sense is unlikely to suffice to establish the necessary possession of governmental authority. Thus, for example, the mere fact that a government is the majority shareholder of an entity does not demonstrate that the government exercises meaningful control over the conduct of that entity, much less that the government has bestowed it with governmental authority.*

Dalian Steelforce contends that the Commission has not identified evidence which would support a finding that the relevant HRC suppliers were public bodies. At best, the evidence relied upon in SEF 285 simply identifies a relationship between the GOC and the HRC entities in the broad sense.

It is noted in SEF 285 that the GOC has been invited to respond to the preliminary findings relating to public bodies. A review of the letter on the public record from the Commission to the GOC reveals that the Commission had regard to information and findings from the ‘recently concluded investigation into deep drawn stainless steel sinks exported from China’ and in particular whether Chinese SIEs that supplied 304-grade stainless steel coil to Chinese manufacturers of those goods were public bodies.

Dalian Steelforce has reviewed the public body findings in the deep drawn stainless steel sinks investigation (REP 238) and makes the following observations:

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<sup>17</sup> ADRP Recommendation Report; para 103; page 26.

<sup>18</sup> Appellate Body Report - United States – Anti-Dumping and Countervailing Duties on Certain Products from China; para 318; page 123.

**PUBLIC RECORD**

- the public body findings in REP 238 are almost word for word identical to the public body findings in SEF 285. The only observable difference being references to the only stainless steel SIE supplier in that investigation, Guangdong Metals and Minerals Import & Export Co., Ltd (Guangdong Metals);
- the findings in REP 238 are based exclusively on the Commission's assessment and evaluation of the features and characteristics of Guangdong Metals;
- the features and characteristics of Guangdong Metals are not simply transferable to Dalian Steelforce's HRC suppliers and therefore not relevant to the current review.

Therefore Dalian Steelforce requests the Commission to review its preliminary findings in respect of public bodies and reasonably conclude that Dalian Steelforce did not receive countervailable subsidies during the review period.

Yours sincerely

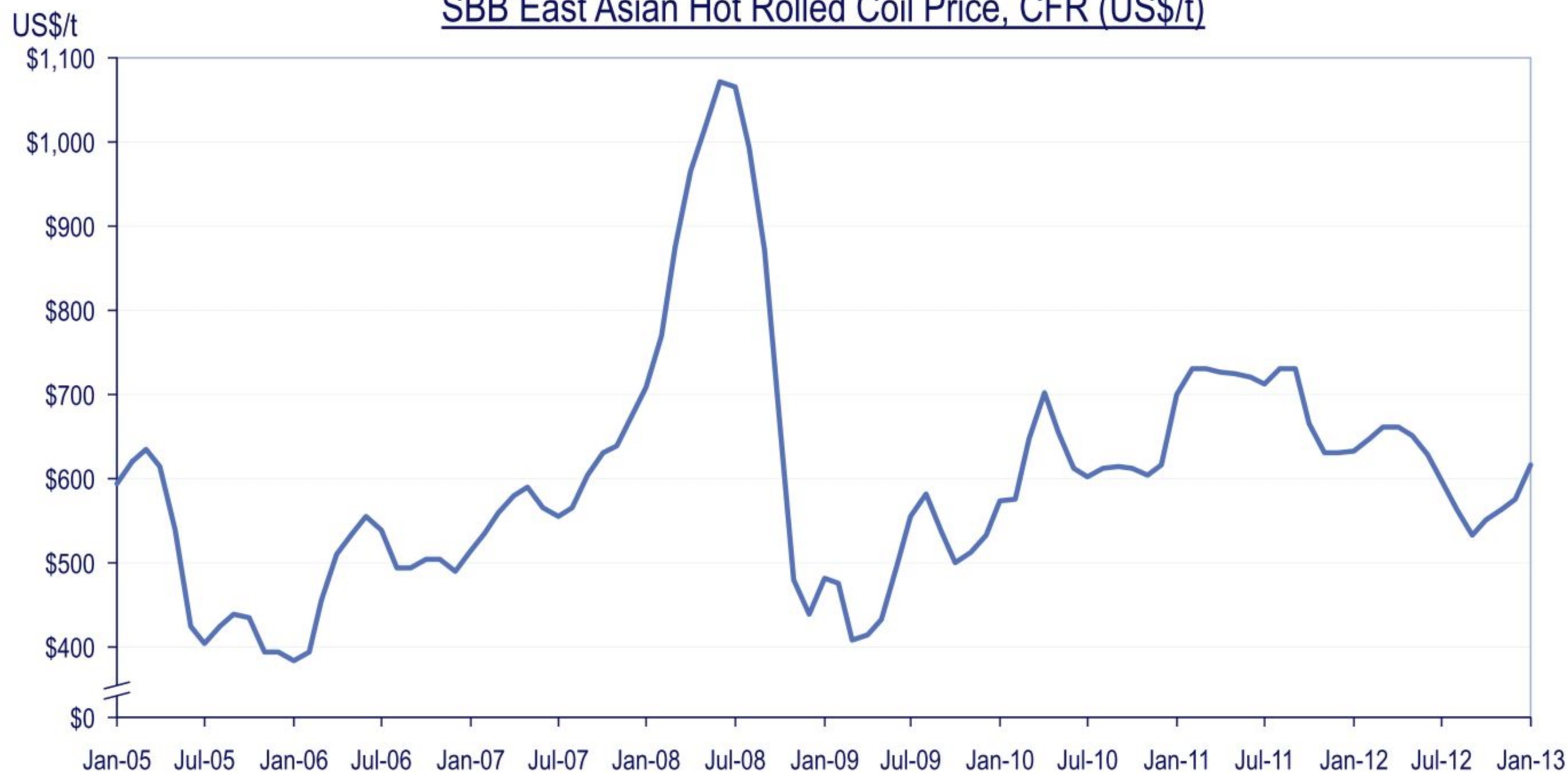
John Bracic



# HRC price benchmark

- Steel Business Briefing prices continue to be a reasonable public benchmark for BlueScope's Asian HRC sales, and an influence on domestic commoditised product pricing (noting this tends to lag by 2 to 5 months and changes over time)

## SBB East Asian Hot Rolled Coil Price, CFR (US\$/t)

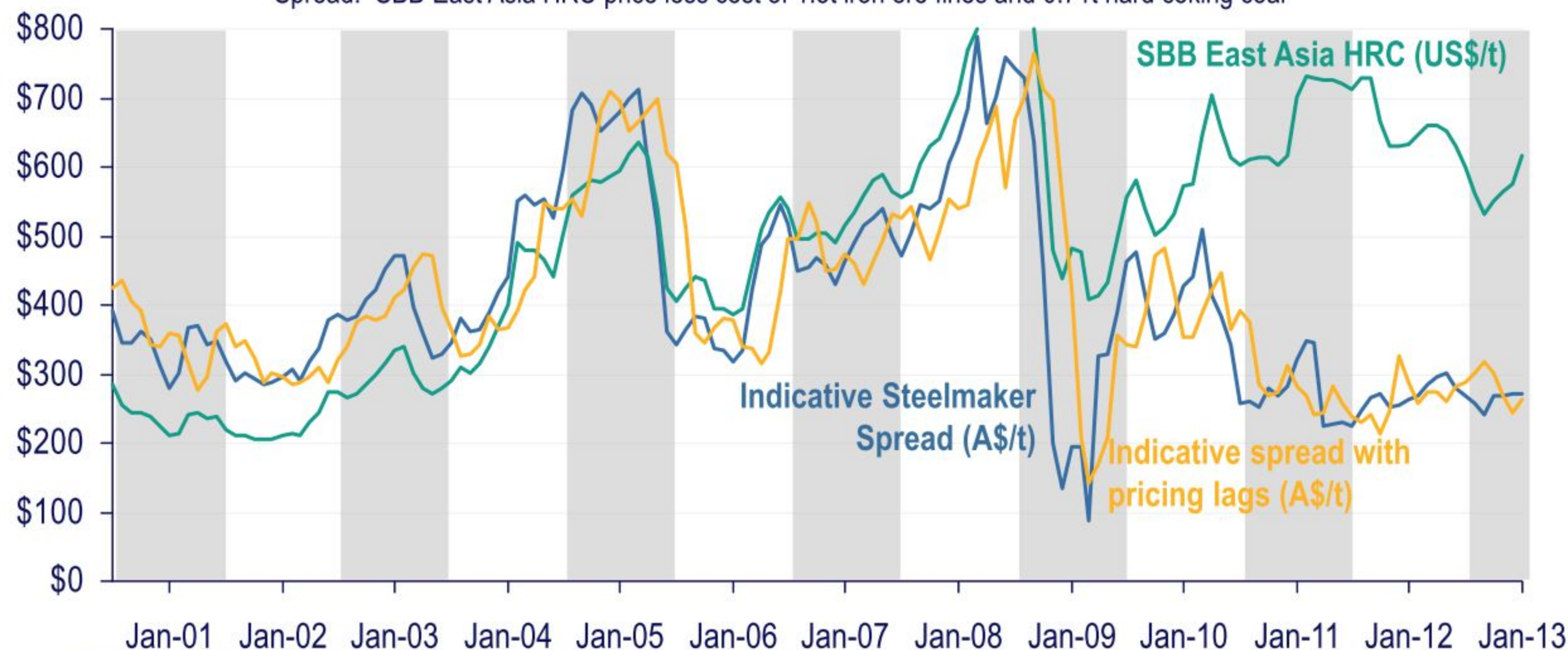




# Spread (steel prices less raw material prices) continues to be a major determinant of C&IPA profitability

## East Asia HRC Price (US\$/t) and Indicative Steelmaker HRC Spread (A\$/t)

Spread: SBB East Asia HRC price less cost of 1.5t iron ore fines and 0.71t hard coking coal



Source: SBB, CRU, Platts, TSI, Reserve Bank of Australia, BlueScope Steel calculations

	FY2010	FY2011	FY2012	1H FY12	2H FY12	1H FY13
Indicative steelmaker HRC spread (US\$/t)	365	271	276	260	291	273
Indicative steelmaker HRC spread (A\$/t)	414	275	267	253	282	263
Indicative spread with pricing lags (A\$/t)	398	290	261	249	273	287
A\$ / US\$ FX	0.88	0.99	1.03	1.03	1.03	1.04

### Notes on calculation:

- 'Indicative steelmaker HRC spread' representation based on simple input blend of 1.5t iron ore fines and 0.71t hard coking coal per output tonne of steel. Chart is not a specific representation of BSL realised export HRC spread (eg does not account for iron ore blends, realised steel prices etc), but rather is shown primarily to demonstrate movements from period to period arising from the prices / currency involved. 'Indicative spread with pricing lags' includes three month HRC price lag and two month raw material prices lags
- Indicative iron ore pricing: 62% Fe iron ore fines price assumed. Industry annual benchmark prices up to March 2010. Quarterly index average prices lagged by one quarter from April 2010 to March 2011; 50/50 monthly/quarterly index average thereafter. FOB estimate deducts baltic cape index freight cost from CFR China price.
- Indicative hard coking coal pricing: low-vol; FOB. Industry annual benchmark prices up to March 2010; quarterly prices from April 2010 to March 2011; 50/50 monthly/quarterly pricing thereafter.



BlueScope has sourced published prices for hot rolled coil ("HRC") and cold rolled full hard ("CRFH") coil as an alternative to the locally purchased galvanised coil that BlueScope-affiliated companies have purchased. The published prices have been sourced from industry publications including MEPS International, Steel Business Briefing ("SBB"), and ISSB (Iron and Steel Statistics Bureau).

The following constructed selling prices (details in Confidential Appendix 1) for galvanised zinc coated steel in India and Vietnam support BlueScope's *prima facie* dumping margins included in its application.

For India, the SBB and MEPS prices are for domestic HRC/CRFH coil. The ISSB data is import HRC and CRFH. For Vietnam – as there is no coil manufacturer in this country – all coil prices are for import supply. The input HRC or CRFH coil accounts for approximately XX per cent of the Cost-To-Make-and-Sell ("CTM&S") galvanised zinc coated steel, and is therefore the key driver of the normal values prepared for India and Vietnam.

The following Table 1 summarizes the normal values and dumping margins utilising the substrates HRC and CRFH sourced from MEPS International, SBB and ISSB.

**Table 1 – Constructed normal values and dumping margins for India and Vietnam**

Country (feed basis)	Normal Value A\$/MT	Export price A\$/MT	Dumping Margin A\$/MT	Margin as % of Export price
<b>India</b>				
SBB – HRC				9.8%
MEPS – CRFH				6.82%
ISSB – HRC Import				3.7%
ISSB – CRFH Import				8.7%
<b>Vietnam</b>				
SBB – E Asia import CRC				10.7%
SBB – HRC Import				5.4%
ISSB – HRC Import				1.7%
ISSB – CRFH Import				11.9%

**Source:** Refer Confidential Constructed Normal Values Spreadsheet at Attachment 1.

The above data is based upon the investigation period July 2013 to June 2014.

BlueScope has provided this information to the Commission in support of its application for a PAD to be made at the earliest opportunity. It is BlueScope's position that the normal value and dumping margin calculations in Table 1 confirm that exports of galvanised zinc coated steel exported from India and Vietnam over the period July 2013 to June 2014 were at dumped prices.

BlueScope's application evidenced that exports of galvanised zinc coated steel from India and Vietnam replaced volumes of dumped and subsidised exports from P R China, and dumped exports from Korea and Taiwan, following the imposition of measures in February 2013. It is BlueScope's contention that only exports from India and Vietnam at **dumped** prices could have secured a large market share against a backdrop of measures applying to exports from China, Korea and Taiwan.



BlueScope's review application details the reasons why the Minister has erred in his assessment of the ascertained export prices, including the use of data that falls outside the investigation period.

## 2.0 Supporting evidence

In a recent investigation involving the review of variable factors applicable to exports of aluminium extrusions by Wui Xisha Photoelectric Aluminium Products Co., Ltd ("WXPAP"), Customs and Border Protection was requested to take account of cost information post the investigation period. In Trade Measures Report No. 186 ("Report No. 186"), Customs and Border Protection rejected the use of information post the investigation period "...as to do so, would be prejudicial against WXPAP whose normal values would also need to be updated<sup>1</sup>".

As indicated in BlueScope's application for review of the HRC decision as it applies to the ascertained export prices, the recommendation by Customs and Border Protection to index the weighted average export prices determined for the investigation period (for each exporter) with a factor based upon data that falls outside the investigation period, assumes that normal values have followed a similar trend. This cannot be evidenced from an assessment of a "regional" benchmark price that is unrelated to prevailing domestic prices in any of the four exporting countries (i.e. Japan, Korea, Malaysia and Taiwan).

BlueScope submits that it has been prejudiced by Customs and Border Protection's recommendation to index the ascertained export prices with data that falls outside the investigation period. It is evident from Customs and Border Protection's statements in Report No. 186 that Customs and Border Protection's policy is not to take account of information post the investigation period as it would be prejudicial to certain interested parties to do so.

## 3.0 Benchmark Data

Trade Measures Report No. 188 states:

*"ascertained export prices have been calculated by indexing export prices found during the investigation to account for movements in regional HRC prices up until October 2012"*<sup>2</sup>

and further

*"the ascertained export price has been calculated by reference to the export prices found during the investigation period and indexed for movements in regional HRC prices in the six month period following the investigation period."*

BlueScope understands that the indexation of the export prices using "regional HRC prices" is based upon references contained in Steel Business Briefing ("SBB") published newsletters. It is further understood that Customs and Border Protection has referenced the East Asia import CFR prices to arrive at changes in the HRC price following the investigation period.

BlueScope steel understands that SBB identifies East Asia CFR pricing as including Vietnam, Philippines, Thailand, Indonesia, and South Korea.

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<sup>1</sup> Refer Trade Measures Report No. 186, Section 7.4, P 18-19.

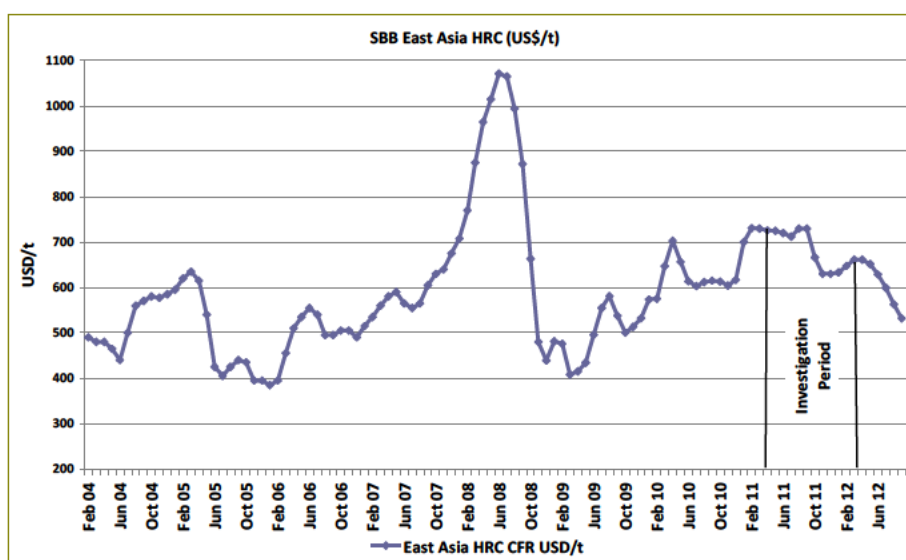
<sup>2</sup> Trade Measures Report No. 188, Section 11, P.81.

*according to the export prices found during the investigation period would remedy more than the effects of dumping, as these prices are no longer relevant in the market. Accordingly, to set measures based on these out-dated export prices would unfairly impact the large number of downstream manufacturers who use HRC as an input.*

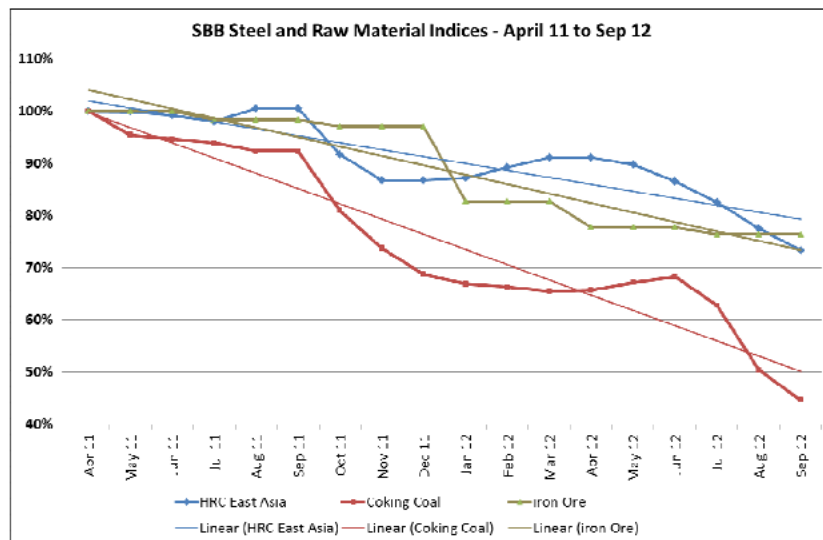
14. Having established that Customs had justifiably determined that there were sufficient grounds to use later prices, OneSteel now addresses the TMRO's second question

**“the preferable methodology for the adjustment of those prices”**

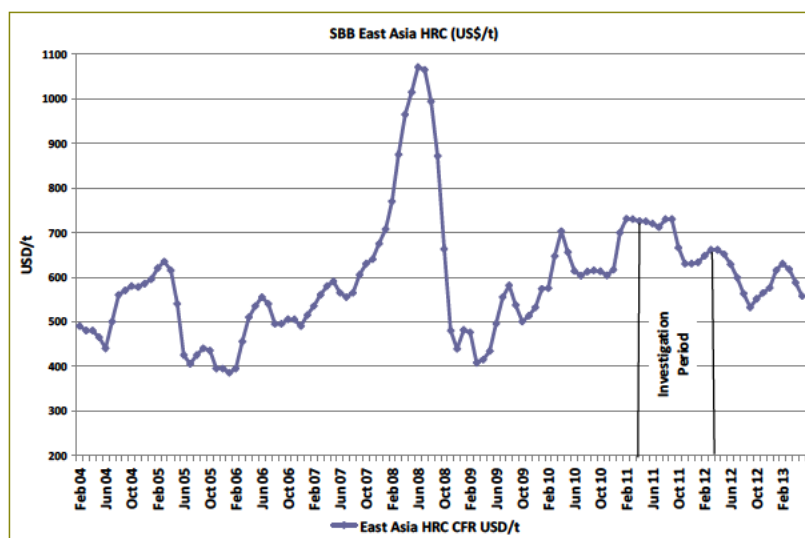
15. As there is no statutory guidance in this matter, Customs adoption of a particular model is appropriately a decision that Customs makes at the time, based on the information that is available at the time. The only matter then becomes is whether it was a reasonable decision.
16. In providing comment on this OneSteel provides the following SBB chart which is an extension of the chart included in REP 188 up until the end of Sept 2012.



17. The data shows that HRC prices had reduced significantly and there would have been no reason, subject to further major one off events that such as floods, to anticipate that HRC prices would recover to levels greater than USD700/t in the near future. Customs would also have had access to similar data on Coking Coal and Iron Ore. The graph below is an index that shows the relative price movements of HRC, Coking Coal and Iron Ore at the beginning of the investigation period through to Sept 12. It demonstrates that it wasn't just the HRC prices that had fallen significantly but also the key commodity prices for coking coal and iron ore.



18. Based on the information that was available to Customs at the time of making its decision, OneSteel submits that it was patently reasonable that it had regard to the movement in the East Asian HRC price.
19. Finally although it is out of scope for the reinvestigation to look at prices applying after the date of the report to the Minister, OneSteel notes the TMRO has referenced comments in relation to this period. Accordingly OneSteel only includes the following information to comment on the assertion that prices of HRC had rebounded to levels during the investigation period.
20. The chart below is a further extension of SBB East Asian HRC prices and whilst it shows a temporary rebound in HRC prices they are clearly not to the same levels experienced during the investigation period. In addition they show HRC again falling and moving away from the peak pricing experienced during the investigation period.





selling prices for HSS based upon raw material HRC<sup>13</sup> prices sourced from SBB<sup>14</sup> and, as was undertaken by CBSA, included amounts for a conversion cost factor, zinc cost (as appropriate), S,G&A expenses and an amount for profit.

OneSteel ATM has utilised HRC pricing obtained from SBB that reflects Japan domestic prices over the twelve-month period to December 2010. The industry considers that a domestic price for HRC is considered a better representation of the raw material input price for a long-term purchaser of HRC than using an export CFR price (that is more representative of 'spot' pricing than longer-term, contractual pricing arrangements). The Japanese domestic price is a Free-On-Truck ("FOT") price excluding local delivery. This price is considered the most appropriate benchmark price for raw material input steel as:

- the Japanese steel industry is considered efficient;
- the industry does not suffer from high protection barriers; and
- the price is considered the most reliable domestic price available from published sources.

As indicated, a conversion cost associated with the value-adding process of converting HRC/HRS to HSS is applied. It should be noted that the conversion cost of narrow strip to HSS is approximately 30 per cent higher than HRC to HSS<sup>15</sup>. This cost also includes a raw material paint cost component. The conversion cost applied is representative of OneSteel ATM's cost.

CBSA identified that the relative cost of labour (included in the conversion factor) is insignificant in the production cost of steel pipe and tube. Chinese HSS producers, therefore, do not possess any comparative advantage in lower production costs due to lower labour rates. The conversion costs of OneSteel ATM are considered competitive and are reflective of a facility operating at close to maximum utilisation rates.

A cost associated with Selling and General Administration (S,G&A) expenses has also been applied to the factory production costs of manufacturing HSS in China. As OneSteel ATM does not have access to S,G&A costs for manufacturers in China (or any other country) a figure based on historic S,G&A expenses has been used. The S,G&A value included is lower than that incurred currently by OneSteel ATM and reflects an amount (i.e. \$ per metric tonne) when OneSteel ATM sales volumes were at significantly higher levels.

The constructed selling price for HSS in China, therefore, reflects lower historic amounts for S,G&A expenses.

OneSteel ATM considers it appropriate to include an amount for profit in the constructed selling price. Manufacturers are profit-motivated and operate to achieve adequate returns for shareholders. The applicants have utilised a five per cent level of profit for Chinese HSS based upon information sourced from SinoTrust reports for Chinese pipe producers<sup>16</sup> in 2010 of approximately 5 per cent (before EBITA).

The constructed selling prices for HSS sold in China in 2010 therefore includes a market price for raw material HRC, an allowance for conversion (and painting), and amounts for S,G&A<sup>17</sup> and profit. This constructed selling price for HSS sold in China is for comparison purposes with Chinese black and painted export prices to Australia.

<sup>13</sup> OneSteel ATM has included evidence demonstrating that the Chinese domestic narrow strip and Chinese domestic HRC prices are similar across 2010/11, and that the xxxxxxxxxxxxxx is approximately \$xxxx/MT below the Japanese HRC price over the same period.

<sup>14</sup> SBB – Steel Business Briefing provides a service to the global steel industry on news, prices, research and events. It is a highly regarded benchmark publication to the global steel industry and is widely relied upon by steel mills, traders, distributors and stock holders for current pricing and events. Refer [www.steelbb.com](http://www.steelbb.com)

<sup>15</sup> Yield loss

<sup>16</sup> SinoTrust Reports indicate that the steel rolling industry net profit in 2010 was 2.23 per cent. A level of profit before taxes and abnormals would likely be approximately 5 per cent. – See Confidential Attachment C-1.1.5.

<sup>17</sup> OneSteel ATM has used an S,G&A value per MT based upon xxxx values achieved in 2008