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25 November 2015

BY E-MAIL

**The Director
Operations 2
Anti-Dumping Commission
GPO Box 9839
Canberra City ACT 2601
Australia**

Re: Anti-Circumvention Inquiry on Zinc Coated (Galvanized) Steel Exported from the People's Republic of China, the Republic of Korea and Taiwan (No. 290 and 298)

Dear Sir or Madam,

On behalf of Yieh Phui Enterprise Co., Ltd. ("Yieh Phui") and its related trader Asiazone Co., Limited ("Asiazone"), we hereby submit our comments to the Statement of Essential Facts ("SEF") published by the Anti-Dumping Commission on 5 November 2015. We respectfully request the Commission to re-consider all the facts and record evidence present in this inquiry in making the final report to the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the "Parliamentary Secretary").

The Commission in the SEF reaches a finding that a circumvention activity has occurred in relation to the boron-added galvanized steel exported by Yieh Phui to Australia. As a result, the Commission proposes to recommend to the Parliamentary Secretary to alter the original notice in respect of Yieh Phui to include boron-added galvanized steel in the

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25 November 2015

Page 2

scope of the anti-dumping measures, and to apply this change retrospectively from 5 May 2015.

In our view, the Commission's finding of the circumvention activity in relation to Yieh Phui's boron-added galvanized steel exported to Australia is flawed because the Commission has ignored certain key evidence on the record. The Commission fails to give proper weight of Yieh Phui's sale of boron-added galvanized steel to [REDACTED] that was submitted in Exhibit 12 of Yieh Phui's 27 July 2015 submission as a sample.

As highlighted in a later submission filed by Yieh Phui on 30 October 2015, for which the Commission has not taken into consideration for the purpose of the SEF, Yieh Phui's sale of boron-added galvanized steel to [REDACTED] manifests that the boron-added galvanized steel does have its own commercial significance which is distinct from the boron-free galvanized steel. Otherwise, [REDACTED] would not have placed an order specifically requesting for it. This transaction also supports the metallurgical effects explained by Yieh Phui that the level of boron used by Yieh Phui did result in a lower level of yield strength of steel, and an enhanced formability. More importantly, this transaction rebuts many of BlueScope's arguments made in its 11 September 2015 submission, which the Commission has not given proper weight in reaching its finding for this inquiry.

Thus, we hereby request the Commission to properly address these issues brought up by the above-mentioned transaction, and take into consideration Yieh Phui's 30 October 2015 submission for the purpose of the Commission's final report. We also request the Commission to investigate further by requesting BlueScope to provide explanations as to

25 November 2015

Page 3

Yieh Phui's sale of boron-added steel to [REDACTED] mentioned above.¹ Without fully analyzing and addressing these issues in the final report, the Commission's final finding will remain flawed and challengeable.

Furthermore, even if the Commission in its final report continues to find that a circumvention activity has occurred in relation to Yieh Phui's boron-added galvanized steel exported to Australia, the Commission's proposed recommendation to include boron-added galvanized steel in the altered scope of anti-dumping measures against Yieh Phui for boron content at all levels is unjustifiably broad. As Yieh Phui previously submitted, the boron level of the boron-added galvanized steel exported by Yieh Phui to Australia ranged generally from [REDACTED] ppm to [REDACTED] ppm (i.e., [REDACTED]% to [REDACTED]% by weight).² The Commission, however, has failed to explain why the boron content at all levels of the boron-added galvanized steel would justifiably be subject to the altered anti-dumping measures. Without proper analysis and explanations, the Commission's recommendation to cover the boron-added galvanized steel with boron content at all levels is arbitrary and unjustifiable.

At last, the Commission's proposed recommendation of applying the new scope of anti-dumping measures retrospectively from the date of initiation of this inquiry is a disproportionately excessive punishment to businesses in Australia which have engaged in

¹ For example, BlueScope has submitted that "if a large quantity of boron were added to the galvanized steel, it could have a softening effect in specific types of low-carbon steel grades and welding issues could ensure". See SEF, at page 33, citing BlueScope Record of Meeting 27 May 2015 site visit. However, BlueScope's assertion contradicts with Yieh Phui's sale of boron-added galvanized steel sold to [REDACTED], as the boron level of Yieh Phui's sales of boron-added galvanized steel to Australia is identical to that of Yieh Phui's sale of boron-added galvanized steel to [REDACTED].

² Yieh Phui 27 July 2015 submission, at page 30.

APPLETON LUFF PTE LTD
INTERNATIONAL LAWYERS

25 November 2015

Page 4

importing the boron-added galvanized steel from Yieh Phui. The purpose of the anti-circumvention laws in relation to anti-dumping measures is to provide a remedy rather than punishment. Businesses in Australia which have imported “non-dumped”³ boron-added galvanized steel honestly believing that the boron-added galvanized steel is not covered by the dumping duty notice of galvanized steel should not be held liable for duties back from the date of initiation of this inquiry.

We would urge the Commission to re-consider the facts and record evidence present in this inquiry, including but not limited to the above, and to make a proper finding, for the purpose of the final report to the Parliamentary Secretary.

Please feel free to contact me if you have any questions regarding this submission.

Very truly yours,



Jay Y. Nee
Appleton Luff Pte Ltd

³ It is BlueScope’s observation and statement that “{e}xports from Taiwan have continued, albeit at levels that are understood to be non-dumped” in its application for Investigation 249.