BlueScope Steel Limited
ABN 16 000 011 058
BANZ
Port Kembla
Post Office Box 1854
Wollongong NSW 2500
Telephone 02 4275 3859
Facsimile +02 4275 7810
www.bluescopesteel.com

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Ms Joanne Reid
Director, Operations 3
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear Ms Reid

Public File

Re: Aluminium Zinc coated steel and Galvanized Steel exported from China – market situation and HRC at less than adequate remuneration

Introduction

I refer to the Australian Customs and Border Protection Service ("Customs and Border Protection") dumping and countervailing investigations into aluminium zinc coated steel and galvanized steel exported from the People's Republic of China ("China").

EU Dumping Investigation

BlueScope Steel Limited ("BlueScope") seeks to highlight with Customs and Border Protection a recent finding of the European Commission (the "Commission") in respect of an "Anti-dumping proceeding concerning imports into the [European] Union of certain organic coated steel ("OCS") products originating in the People's Republic of China" (refer Commission Regulation No. 845/2012 of 18 September 2012).

The Regulation of 18 September 2012 imposes provisional measures on exports of OCS exported from China. The provisional dumping margins range between 13.2 per cent and 57.8 per cent.

EU Subsidy Application

On 22 February 2012, the Commission commenced an anti-subsidy investigation into imports of certain OCS products from China into the EU (refer Initiation Notice No. 2012/C 52/05). The application was made by EUROFER, the European Steel Association, on behalf of its members producing like goods.

The application nominated a number of specific programs that were considered to have afforded a benefit to Chinese producers of OCS. The programs broadly fall within the following areas:

(i) Provision of goods and services at less than adequate remuneration by the Government of China ("GOC") including for the following inputs: hot-rolled and cold-rolled steel, water, electricity, other various inputs. The provision of land at less than adequate remuneration was also included;
(ii) Preferential loans and concessional interest rates to the OCS industry;
(iii) Income and local tax concessions/reductions and/or exemptions;

(iv) Indirect tax and import duty reductions and/or exemptions; and
(v) Provision of grants.

On 15 February 2013, the Commission published "Proposal for a Council Implementing Regulation imposing a countervailing duty on imports of certain organic coated steel products origination from the People's Republic of China" No. 2013/0052[1]. The document is an Explanatory memorandum summarizing the findings of the anti-subsidy investigation into exports of OCS from China to the EU. The Proposed Council Regulation details the findings and the recommended countervailing measures to be applied on Chinese OCS exports to the EU.

The following Table summarizes the subsidy margins assessed by the Commission for the relevant Chinese OCS exporters:

Company Name	**Countervailing Duty**
Zhangjiagang Panhua Steel Strip Co., Ltd; Chongqing Wanda Steel Strip Co., Ltd; Zhangjiagang Free Trade Zone Jiaxinda International trade Co., Ltd;	29.7 per cent
Zhejiang Huadong Light Steel Building Material Co., Ltd; Hangzhou P.R.P.T. Metal Material Co., Ltd	23.8 per cent
Union Steel China	26.8 per cent
Other cooperating companies	26.8 per cent
Residual duty (all other exporters)	44.7 per cent

It is understood that the Proposed Council Regulation will be approved as a final Council Regulation by 15 March 2013.

<u>EC's Countervailing Finding relevant to Customs and Border Protection's investigations</u>

The Commission's findings concerning subsidy programs that provide benefits to Chinese producers and exporters of OCS are of relevance to the current investigations by Customs and Border Protection into aluminium zinc coated steel and galvanized steel exported from China.

Whereas the administration of the anti-dumping provisions under the WTO Anti-Dumping Agreement may differ across different jurisdictions (for example, whether China is recognized as a market economy country), the countervailing provisions across the jurisdictions is generally more closely aligned. BlueScope therefore considers that the recent findings by the Commission in respect of subsidy programs established for the OCS industry in China are directly relevant to Customs and Border Protection's investigations into aluminium zinc coated steel and galvanized steel exported from China.

It is observed that the investigation period for the Commission's anti-subsidy investigation was 1 October 2010 to 30 September 2011. This period overlaps the investigation period of Customs and Border Protection's investigations into aluminium zinc coated steel and galvanized steel that is from 1 July 2011 to 30 June 2012. It is therefore likely that programs identified and investigated by the

[1] 'Refer to the attachment to our submission dated 25 February 2012

Commission in the OCS investigation are relevant to the Customs and Border Protection countervailing inquiries.

<u>Specific Programs identified by EC</u>

BlueScope highlights with Customs and Border Protection the Commission findings in respect of key programs that were assessed as having provided a benefit to Chinese producers and exporters of OCS. These include:

(i) Provision of hot-rolled and cold rolled steel (HRS and CRS) for less than adequate remuneration

The Commission examined the following relevant factors in its assessment of HRS and CRS at less than adequate remuneration including as to whether:

- State Owned Enterprises ("SOEs") providing OCS manufacturers with HRS and CRS are 'public bodies';
- a benefit was provided to the public bodies (i.e. OCS producers);
- the program was specific;
- the private suppliers are directed by the GOC to provide HRS and CRS at less than adequate remuneration; and
- a financial contribution was made.

Public bodies

The Commission considered that the GOC formulated aims and objectives for the Chinese Iron and Steel industry through its plans and policies that included the Twelfth Five Year Development Plan for the Steel Industry, the National Development and Reform Commission's Order No. 35 in respect of Policies for Development of the Iron and Steel Industry, and the Law of the People's Republic of China on the State-owned Assets of Enterprises (that requires SOEs to comply with national industrial policies[2]).

The Commission determined that any SOE in which the GOC is the majority or largest shareholder was considered a 'public body'. By contrast, any entity with no government ownership is recognised as a private body.

Benefit to public bodies

The Commission relied upon information available to it to find that approximately 63 per cent of HRS produced in China is produced by SOEs, which it considered to be a minimum figure. BlueScope notes that in the US Department of Commerce inquiry into Light-Walled Rectangular Pipe and Tube exported from China, it was confirmed by the GOC that approximately 70.81 per cent of HRS is produced by SOEs.

[2] The Commission quotes *Article 35 of the Law of the People's Republic of China on the State-owned Assets of Enterprises* that reads: "A State-invested enterprise making investment shall comply with the national industrial policies….." refer Footnote 10, P.15 Council Implementing Regulation imposing a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China.

As the SOEs account for a significant proportion of production of HRS in China (as well as for CRS), the Commission concluded that the private suppliers would be influenced by the dominant SOEs in the sector. It was therefore found that the SOEs influenced the prices for HRS and CRS in China.

As domestic prices for HRS and CRS were influenced by SOEs, the Commission considered an alternative benchmark for HRS and CRS prices for use in constructed normal values for Chinese producers of the goods under investigation.

Specificity

The Commission concluded that HRS and CRS is used by only a limited number of industries and the program was therefore specific.

Impact of SOEs on private suppliers

By taking account of the GOC's plans for directing the Chinese Iron and Steel industry, identifying the export restrictions on HRS and CRS (with domestic sales of HRS and CRS attracting a 13 per cent VAT rebate, whereas the rebate is not available on export), and that private suppliers could not operate independently from the GOC and SOEs in the sector, it was concluded by the Commission that the prices for privately-owned suppliers were "aligned" with those of the SOEs.

Financial contribution

The Commission concluded that the private suppliers of HRS and CRS were not operating in a manner that they would do so "in a free and open market" (due to the GOC influence on export restrictions, government planning and level of SOE dominance in the sector).

The Commission was satisfied that the GOC policies applicable to SOEs in the steel industry to supply HRS and CRS extended to private suppliers.

Commission's Benchmark methodology

The Commission used a benchmark value for HRS and CRS based upon world steel prices sourced from steel journals (SBB and MEPS) using domestic prices for five countries/regions (i.e. Europe, USA, Turkey, Japan and Brazil), and compared the benchmark with the actual purchase values of cooperating exporters.

Subsidy margins for exporters in the range 23.8 per cent to 44.7 per cent were assessed.

<u>Conclusion on HRS and CRS at less than adequate remuneration</u>

The Commission's findings as to HRS and CRS sold at less than adequate remuneration are not dissimilar to Customs and Border protections' findings on HRS (narrow strip and hot rolled coil) in the HSS investigation No. 177.

BlueScope submits that the Commission's finding in the OCS anti-subsidy investigation reinforces Customs and Border Protection's findings contained in Report No. 177 in respect of HRS at less than adequate remuneration. BlueScope therefore requests that Customs and Border Protection similarly confirm that HRC and CRC used in the manufacture of aluminium zinc coated steel and galvanized steel manufactured in China is sold at less than adequate remuneration, thereby providing a benefit to the aluminium zinc coated steel and galvanized steel producers and exporters.

(ii) Provision of electricity and water at less than adequate remuneration

The Commission considered Eurofer's claims that electricity and water were provided to OCS producers and exporters at less than adequate remuneration.

The Commission established that OCS producers had benefited from a specific subsidy and that a subsidy rate for cooperating exporters of 0.07 per cent and for non-cooperating companies of 0.17 per cent applied.

In respect of water, the determined benefit was negligible. However, for cooperating companies the benefit received was determined at 0.07 per cent, and for non-cooperating companies the benefit was 0.14 per cent.

(iii) Provision of land use rights for less than adequate remuneration

The Commission calculated benefits for the two cooperating Chinese producers and exporters at 0.48 per cent (Huadong Group) and 1.36 per cent for the other (Panhua Group).

The weighted average rate for cooperating exporters was determined at 0.93 per cent, and for non-cooperating exporters at 1.65 per cent.

Provision of various goods for less than adequate remuneration

Eurofer had identified a range of other inputs to the steelmaking process that were considered to be at less than adequate remuneration, including: iron ore concentrate, pellets, sintered ore, scrap, billet, alloys and others.

The Commission did not pursue these programs due to a lack of information available from the GOC however also due to "*the complexity of the various transactions for the provision of these goods and of the underlying contracts which were not available in the record of the proceeding did not enable the Commission to come to a firm conclusion on this programme. Therefore the Commission has decided not to assess this programme further*[3]."

Comments

BlueScope has nominated coke and coking coal as products considered to have been sold at less than adequate remuneration in the coated steel investigations. An absence of a finding by the Commission does not negate the need to investigate BlueScope's claims of both products being the subject of subsidy programs by the GOC.

(iv) preferential loans and interest rates

Customs and Border Protection did not initiate investigations into BlueScope's claims concerning concessional loans to producers and exporters of aluminium zinc coated steel and galvanized steel.

[3] P. 32. Paragraph 156.

The Commission has, however, investigated the provision of low-interest loans available to OCS producers and exporters. The Commission found that the Chinese banks did not adequately assess credit risk and that an appropriate assessment was required. The Commission found that benefits afforded to Chinese OCS producers and exporters of OCS due to preferential loans and interest rates for cooperative exporters was 0.58 per cent and for non-cooperative exporters of 0.97 per cent.

Information obtained at Chinese exporter verification visits by Customs and Border Protection will establish whether the findings of the Commission that discounted interest rates (and inadequate credit risk assessments) have been provided to OCS producers and exporters, have also been identified for producers and exporters of the coated steel inquiries.

(v) Income tax concessions/reductions and exemptions

The Commission identified some income tax programs that permit the entity an up to 50 per cent reduction in tax payable for a specified period. Other programs permit various reductions and concessions according to the status of the enterprise and its location.

The programs that provided the greatest benefit for non-cooperating exporters included:

- Preferential tax policies for companies that are recognised as high and new technology companies;
- Income tax exemption for investment in domestic technological innovation;
- Dividend exemption between qualified resident enterprises;
- Preferential tax programme for Foreign Invested Entities (FIEs);and
- VAT deduction on fixed assets in the Central region.

BlueScope notes that Customs and Border Protection will be investigating one or more of the above programs in the aluminium zinc coated steel and galvanized steel countervailing investigations.

(vi) Other programs

The Commission also investigated various subsidy programs including grants, reimbursement of expenses for defending dumping claims, export interest subsidies and export loans.

BlueScope highlights with Customs and Border Protection the existence of export loans that fall under the “Provisions Administration Measures on High Tech products and Equipment Manufacturing Products Export Financial interest Assistance of Liaoning Province” of 16 December 2004 that provides a benefit for exporting producers.

The Commission calculated a benefit for non-cooperating exporters of 1.76 per cent.

(vii) Conclusion on Commission’s Anti-Subsidy Findings on OCS exported from China

The Commission has investigated the subsidy claims of Eurofer that provide benefit(s) to Chinese exporters of organic coated steel products exported from China. BlueScope submits that organic coated steel product is a valued-added product of HRS (including HRC) as is aluminium zinc coated steel and galvanized steel. It is therefore reasonable to deduce that Chinese producers of aluminium zinc coated steel and galvanized steel have access to, or receive, benefits under the subsidy programs identified by the Commission.

As indicated, it is relevant to highlight that the investigation period for the Commission's investigation into OCS exported from China was the twelve months ending 30 September 2011, with the last quarter of the period coinciding with the investigation period for the aluminium zinc coated steel and galvanized steel investigation period (i.e. from 1 July 2011 to 30 June 2012).

BlueScope observes that the investigated subsidy program that provides the highest benefit is the HRS (including HRC and CRS) at less than adequate remuneration. BlueScope is aware that the HRS and CRS subsidy program accounted for greater than 90 per cent of the total subsidy benefit determined for the two cooperative exporters Huadong Group and Panhua Group, and for approximately 70 per cent of the subsidy benefits calculated for Chinese non-cooperative exporters of OCS.

On the basis that the countervailing provisions applicable to WTO members under the WTO Agreement on Subsidies and Countervailing Measures are applied consistently across jurisdictions, it is BlueScope's view that Customs and Border Protection will likely assess similar subsidy findings for aluminium zinc coated steel and galvanized steel as was determined for OCS exports from China by the Commission.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4275 3858.

Yours sincerely

Alan Gibbs
Development Manager – International Trade