

**From:** Charles Zhan [<mailto:Charles.Zhan@moulislegal.com>]

**Sent:** Monday, 28 November 2016 11:25 PM

**To:** Sharma, Sanjay <[Sanjay.Sharma@adcommission.gov.au](mailto:Sanjay.Sharma@adcommission.gov.au)>

**Cc:** Daniel Moulis <[Daniel.Moulis@moulislegal.com](mailto:Daniel.Moulis@moulislegal.com)>; Macky Markar <[Macky.Markar@moulislegal.com](mailto:Macky.Markar@moulislegal.com)>

**Subject:** RE: Essar Steel - alleged dumping and subsidisation of certain galvanized steel from India

Dear Sanjay

Essar has instructed us to inform the Commission a number of issues regarding its participation in this investigation.

First of all, as mentioned in our previous email, the on-going trade remedy investigations that are being conducted by the Government of India continue to consume significant resources and time within Essar. This includes prolonged verification and the continued burden of information provision. Our client now realises that the level of resources and time required has exceeded its previous estimation completely. It must of necessity dedicate further administrative, human, and time resources to those procedures, and prioritise those procedures, as they are of critical commercial importance. The domestic market represents the vast majority of Essar's overall operations, as indicated in the sales information Essar provided previously.

Secondly, and in light of the practical difficulties faced by Essar domestically, Essar takes note of the commercial reality that its Australian sales volume during the investigation period has been much lower than before – indeed less than **[CONFIDENTIAL TEXT DELETED - fraction]** of the volume exported in the investigation period in the previous investigation. Essar notes that this decline in export volume is shared to a lesser extent by all Indian exporters, as indicated in the Commission's own consideration report.

Thirdly, as will also be evidenced from Essar's previous full participation, the price and expense related calculations that are required to fairly adjust Essar's multiple routes to market back to the comparative export level are extensive and complicated. Despite our client's absolute respect for the tasks that the Commission must undertake, **[CONFIDENTIAL TEXT DELETED – commercial consideration regarding current investigation]**.

Accordingly, we must advise that without an extensive extension of time, of a duration that we anticipate would not be acceptable to the Commission, Essar will not be able participate in the AD investigation by way of providing responses to all questions in the EQ. Nonetheless, Essar intends to continue be fully participative in respect of the Commission's investigation concerning BlueScope's injury allegations. Indeed, Essar finds it perplexing as to how BlueScope's claim can be supported by way of the initiation of this investigation given:

- the Commission's previous finding that the imports from India at dumped prices did not cause material injury to BlueScope;
- the sharp decline in the total level of imports from India;
- increases in BlueScope's domestic sales volumes.

Essar plans to defend itself against the injury allegations, which appear to be both false and unrealistic. "Repeat" investigations of this type, initiated so soon after a previously failed investigation, have proven to be opportunistic and unjustified - the examples of hot-rolled plate steel, quicklime, as well as the previous galvanized steel concerning India and Vietnam come to mind - and in that context can be seen as exercises aimed at shutting out competition rather than being realistic claims of material injury caused by alleged dumping.

Also, despite the significant difficulties Essar presently faces, it wishes to respond to the Commission's countervailing investigation. This is a new aspect of the Commission's interest, which was not required to be addressed in the previous investigation. Therefore, Essar wants to respond to the subsidy allegations contained in BlueScope's application in so far as they might relate to Essar. Due to the impediments stated in this and the previous email, Essar sincerely requests a further extension of time to allow it to compile the relevant information in the EQ with regard to the

countervailing investigation. For this purpose, Essar respectfully asks for a slightly longer time, to Monday 12 December, to collect, analyse and provide the relevant information. In this regard, Essar also notes that the Government of India has already provided its response to the Government Questionnaire, meaning that the Commission already has some information that can serve as a basis for its consideration. We also note that the Christmas/New Year period may be a period during which the investigation will slow down for the inevitable holidays and absences of Commission staff around that time. Essar expects that the further time it requests would not unduly prevent the Commission's investigation progress or the timely issuance of the SEF, with extensions that the Commission might think are inevitable due to other reasons. Please let us know if this longer time is acceptable to the Commission.

Notwithstanding the difficulties it has encountered in this exercise, Essar does wish to stress that it places great importance on maintaining good relations with the Commission and in attempting to meet optimal levels of compliance and understanding. Thus, if you have any concerns at all, I would be most grateful if you could please contact me by telephone to discuss.

Regards



our diversity  
your advantage

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