



**Australian Government**  
**Anti-Dumping Commission**

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**CUSTOMS ACT 1901 - PART XVB**

# **FINAL REPORT NO. 290, 298**

## **ANTI-CIRCUMVENTION INQUIRIES**

### **ZINC COATED (GALVANISED) STEEL EXPORTED FROM THE REPUBLIC OF KOREA, TAIWAN AND THE PEOPLE'S REPUBLIC OF CHINA**

**29 February 2016**

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**ABBREVIATIONS**

ACDN	Australian Customs Dumping Notice
the Act	<i>Customs Act 1901</i>
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
Angang HK	Angang Group Hong Kong Co., Ltd
ANSTEEL	Angang Steel Co., Ltd
Asiazone	Asiazone Co Ltd
Bao Australia	Bao Australia Pty Ltd
Baoshan Steel	Baoshan Iron & Steel Co.
Benxi International	Benxi Iron and Steel (Group) International Economic & Trading Co.
BlueScope	BlueScope Steel Limited
BOS	basic oxygen steelmaking
China	the People's Republic of China
the circumvention goods	the slightly modified goods the subject of the anti-circumvention inquiry
CITIC	CITIC Australia Commodity Trading Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
DIBP	Department of Immigration and Border Protection
Dongbu	Dongbu Steel Co., Ltd
Dongkuk	Dongkuk Steel Mill Co. Ltd
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
galvanised steel	zinc coated (galvanised) steel
the goods	the goods the subject of the original notices, being non-alloyed zinc coated (galvanised) steel
HRC	hot rolled coil
ICD	interim countervailing duty
IDD	interim dumping duty
Investigation 190	the original investigation into dumping of zinc coated (galvanised) steel from China, Korea and Taiwan
Investigation 193	the original investigation into countervailing of zinc coated (galvanised) steel from China
Investigation 249	the investigation into dumping of zinc coated (galvanised) steel from India and Vietnam
Kenna	Kenna International Corporation
Korea	the Republic of Korea
original notices	the public notices published in the Australian Government Gazette on 5 August 2013 and referred to in Anti-Dumping Notice No. 2013/66.
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
POSCO	POSCO Australia Pty Ltd
Precision Components	Precision Components Australia Pty Ltd

## PUBLIC RECORD

Professor Dunne	Emeritus Professor Druce Dunne
Q&T	Quench and Tempered
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
the SEF	<i>Statement of Essential Facts 290 and 298</i>
the Tariff Act	<i>Customs Tariff Act 1995</i>
TCO	Tariff concession order
Union Steel	Union Steel Co., Ltd
Wright Steel	Wright Steel Sales Pty Ltd
Yieh Phui	Yieh Phui Enterprise Co., Ltd

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Introduction

This final report relates to the investigation by the Commissioner of the Anti-Dumping Commission (the Commissioner) into allegations made by BlueScope Steel Limited (BlueScope) that circumvention activities provided for in section 48 of the *Customs (International Obligations) Regulation 2015* (the Regulation)) have occurred with respect to certain zinc coated (galvanised) steel exported to Australia from the Republic of Korea (Korea), Taiwan and the People's Republic of China (China).

Certain non-alloyed galvanised steel (referred to as “the goods”) is subject to anti-dumping measures specified by public notices published in the Australian Government Gazette on 5 August 2013 (the original notices) and referred to in Anti-Dumping Notice (ADN) No. 2013/66. BlueScope alleged that these measures have been circumvented by certain exporters through the slight modification of the galvanised steel exported to Australia, namely, by the addition of alloying elements. This report refers to alloyed galvanised steel as “the circumvention goods”.<sup>1</sup>

This report sets out the findings on which the Commissioner has based his recommendation to the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)<sup>2</sup> in relation to BlueScope's application.

## 1.2 Recommendation to the Parliamentary Secretary

Based on the findings in this final report, the Commissioner recommends that the Parliamentary Secretary amend the notices published under subsections 269TG(2) and 269TJ(2) of the *Customs Act 1901* (the Act)<sup>3</sup> in respect of galvanised steel exported to Australia by certain exporters from certain countries.

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<sup>1</sup> Further detail concerning the non-alloyed galvanised steel that is subject to measures and the circumvention goods can be found in Chapters 3 and 4.

<sup>2</sup> On 23 December 2014, the then Minister for Industry and Science delegated his powers and functions under Part XVB of the *Customs Act 1901* to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Department of Industry and Science became the Department of Industry, Innovation and Science. The titles of the Minister and Parliamentary Secretary also changed to the Minister for Industry, Innovation and Science, and the Parliamentary Secretary to the Minister for Industry, Innovation and Science. On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

<sup>3</sup> A reference to a part, division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

## 1.3 Application of law to facts

### 1.3.1 Authority to make decision

Division 5A of Part XVB of the Act sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting anti-circumvention inquiries in relation to goods covered by an application for the purpose of making a report to the Parliamentary Secretary.

### 1.3.2 Application

On 1 April 2015, BlueScope, the sole Australian producer of galvanised steel, lodged an application under subsection 269ZDBC(1) requesting an anti-circumvention inquiry in relation to galvanised steel exported from Korea and Taiwan.

On 7 May 2015, BlueScope lodged an application under subsection 269ZDBC(1) for an anti-circumvention inquiry in relation to galvanised steel exported from China.

The Commissioner was satisfied that each application was made in the prescribed manner and complied with section 269ZDBD.<sup>4</sup>

### 1.3.3 Initiation of inquiries

After examining each application, the Commissioner was satisfied that there appeared to be reasonable grounds for asserting a circumvention activity in relation to the original notices had occurred.<sup>5</sup>

The Commissioner decided not to reject the applications, and notice of the initiation of:

- an anti-circumvention inquiry into galvanised steel exported from Korea and Taiwan (Inquiry 290) was published on 5 May 2015; and
- an anti-circumvention inquiry into galvanised steel exported from China (Inquiry 298) was published on 1 June 2015.

Due to the identical nature of the goods and the alleged circumvention activity, the Anti-Dumping Commission (the Commission) conducted these inquiries in parallel.<sup>6</sup>

### 1.3.4 Statement of essential facts

The Commissioner published the *Statement of Essential Facts 290 and 298* (the SEF) on 5 November 2015.<sup>7</sup>

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<sup>4</sup> Subsection 269ZDBE(2)(a).

<sup>5</sup> Subsection 269ZDBE(2)(b).

<sup>6</sup> A third inquiry concerning hollow structural steel sections exported from China, Korea and Malaysia (Inquiry 291) was also conducted in parallel.

<sup>7</sup> Item 027 on the public record refers.

## 1.4 Findings and conclusions

The Commissioner has made the following findings and reached the following conclusions based on all available evidence.

### 1.4.1 The goods subject to measures (Chapter 3 of this report)

The goods subject to measures (the goods) are:

*Flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc.*

The goods are generically referred to as non-alloyed galvanised steel.

### 1.4.2 The alleged circumvention goods (Chapter 4 of this report)

The goods subject to the anti-circumvention inquiries (the circumvention goods), for the purposes of subsection 48(2)(a) of the Regulation, are described as:

*Flat rolled iron or steel products containing alloys of a width less than 600mm and, equal to or greater than 600mm, plated or coated with zinc.*

For the purposes of this report, the circumvention goods are also generically referred to as alloyed galvanised steel.

### 1.4.3 Circumvention of the anti-dumping measures (Chapter 5 of this report)

The Commissioner has examined the available evidence concerning exports of the goods and the circumvention goods by exporters subject to the original notices.

The Commissioner has found that the circumvention goods exported by certain exporters:

- have been exported from a foreign country in respect of which the notice applies;
- were slightly modified before that export;
- the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified;
- would have been subject of the notice if they had not been so slightly modified; and
- the scope of the goods did not include alloyed galvanised steel and therefore sections 8 and 10 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) do not apply to the export of the circumvention goods to Australia.

The degree of modification has been examined in light of the non-exhaustive list of criteria outlined in subsection 48(3) of the Regulation. The Commissioner has compared the goods and the circumvention goods and determined that the circumvention goods have been slightly modified through the addition of alloying elements.

Accordingly, the Commissioner considers that a circumvention activity<sup>8</sup> has occurred with respect to certain exporters.

#### **1.4.4 Recommendations (Chapters 6 and 7 of this report)**

Following the finding that a circumvention activity has occurred in relation to the original notices, the Commissioner recommends that, because of this activity, the original notices should be altered.<sup>9</sup>

The Commissioner recommends that the Parliamentary Secretary declare that the original notices be altered to specify that different goods exported by the specified exporters or supplied by the specified suppliers are to be the subject of the original notices.

Table 1 summarises the exporters that the Commissioner recommends be specified in the Parliamentary Secretary's declaration.

<b>Exporter</b>	<b>Country of export</b>	<b>Original notice made</b>
Yieh Phui Enterprise Co., Ltd	Taiwan	Subsection 269TG(2)
Angang Steel Co., Ltd	China	Subsection 269TG(2)
Benxi Iron and Steel (Group) International Economic & Trading Co.	China	Subsections 269TG(2) and 269TJ(2)

**Table 1: Circumvention goods to be subject to measures**

The Commissioner recommends that the original notices be altered so as to have effect from the date that these circumvention inquiries were initiated.

### **1.5 Public Record**

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's reports and other publically available documents. It is available by request in hard copy in Canberra or Melbourne (phone 03 8539 2440 to make an appointment), or online at [www.adcommission.gov.au](http://www.adcommission.gov.au).

This final report should be read in conjunction with the documents on the public record.

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<sup>8</sup> Subsection 269ZDBB(6).

<sup>9</sup> Subsection 269ZDBG(1)(d).

## 2 BACKGROUND

### 2.1 History of measures - original investigations

#### 2.1.1 Dumping duty notice

On 3 August 2012, BlueScope lodged an application requesting that the then Minister publish a dumping duty notice in respect of galvanised steel exported to Australia from China, Korea and Taiwan. On 5 September 2012, following consideration of the application, the then Chief Executive Officer of the Australian Customs and Border Protection Service (ACBPS) decided not to reject the application and initiated an investigation into galvanised steel under case number 190a.

On 6 February 2013, following the making of a preliminary affirmative determination (PAD), securities were taken on galvanised steel exported from China, Korea and Taiwan that was entered for home consumption on or after that date.

On 5 August 2013, following consideration of *Anti-Dumping Commission Report No. 190*, the then Attorney-General published dumping duty notices under subsections 269TG(1) and 269TG(2) imposing anti-dumping measures in the form of interim dumping duty (IDD) on galvanised steel exported to Australia from China, Korea and Taiwan.

The dumping duty notices cover all exporters of galvanised steel from China, Korea and Taiwan except for:

- Union Steel Co., Ltd from Korea;
- Sheng Yu Co., Ltd from Taiwan; and
- Ta Fong Steel Co., Ltd from Taiwan.

For the purposes of these inquiries, the subsection 269TG(2) notice is the original dumping duty notice (the prospectively operating notice), as set out by subsection 269ZDBB(1).

#### 2.1.2 Countervailing duty notice

On 3 August 2012, BlueScope lodged an application requesting that the then Minister publish a countervailing duty notice in respect of galvanised steel exported to Australia from China. On 26 November 2012, following consideration of the application, the then CEO of ACBPS decided not to reject the application and initiated an investigation into galvanised steel under case number 193a.

On 15 May 2013, following the making of a PAD, securities were taken on galvanised steel exported from China, Korea and Taiwan that was entered for home consumption on or after that date.

On 5 August 2013, following consideration of *Anti-Dumping Commission Report No. 193*, the then Attorney-General published countervailing duty notices under subsection 269TJ(1) and TJ(2) imposing anti-dumping measures in the form of interim countervailing duty (ICD) on galvanised steel exported to Australia from China.

The countervailing duty notice covers all exporters of galvanised steel from China except for:

- Angang Steel Co., Ltd; and
- ANSC TKS Galvanising Co., Ltd.

For the purposes of these inquiries, the subsection 269TJ(2) notice is the original countervailing duty notice (the prospectively operating notice), as set out by subsection 269ZDBB(1).

The original dumping duty notice and the original countervailing duty notice (together, the original notices) and ADN No. 2013/66 which advises the imposition of anti-dumping measures are included at **Appendix 1** for reference.

### 2.1.3 Summary of dates – Investigation 190a and 193a

The table below summarises key dates of the original investigations into galvanised steel for ease of reference. Patterns of trade discussions make reference to these dates throughout this report in examining whether a circumvention activity has occurred.

Activity	Investigation 190a (dumping)	Investigation 193a (countervailing)
Investigation initiated	5 September 2012	26 November 2012
Publication of original notice (interim duties collected from)	5 August 2013	5 August 2013

**Table 2 – Summary of key dates – original investigations**

## 2.2 Current inquiries

After examining each application, the Commissioner was satisfied that there appeared to be reasonable grounds for asserting that a circumvention activity in relation to the original notices had occurred.<sup>10</sup>

### 2.2.1 Inquiry 290: Korea and Taiwan

In relation to the application concerning exports of the circumvention goods from Korea and Taiwan, the Commissioner decided not to reject the application and initiated an anti-circumvention inquiry on 5 May 2015. Public notification of initiation of the inquiry was made in *The Australian* newspaper on 5 May 2015.

The Commission's assessment of the application is set out in *Consideration Report 290*. ADN No. 2015/55 provides further details of the inquiry. Both documents are available on the public record.

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<sup>10</sup> Subsection 269ZDBE(2).

## **2.2.2 Inquiry 298: China**

In relation to the application concerning exports of the circumvention goods from China, the Commissioner decided not to reject the application and initiated an anti-circumvention inquiry on 1 June 2015. Public notification of initiation of the inquiry was made in *The Australian* newspaper on 1 June 2015.

The Commission's assessment of the application is set out in *Consideration Report 298*. ADN No. 2015/69 provides further details of the inquiry. Both documents are available on the public record.

## **2.3 Nature and scope of the inquiries**

Due to the identical nature of the goods and the alleged circumvention activity, the Commission conducted both of these inquiries in parallel. The inquiry process is outlined below.

### **2.3.1 Post-initiation meeting with BlueScope**

Following initiation, the Commission met with BlueScope on 27 May 2015 to gain a better understanding of:

- the process involved in the slight modification of galvanised steel to circumvent anti-dumping measures;
- alloys that may be used for this slight modification; and
- the commercial activities that may surround the circumvention.

The non-confidential record of the meeting can be found on the public record.

### **2.3.2 Meetings with interested parties**

At the request of the parties, the Commission conducted additional meetings prior to issuing the SEF with:

- Wright Steel Sales Pty Ltd (Wright Steel) and CITIC Australia Commodity Trading Pty Ltd (CITIC); and
- POSCO Australia Pty Ltd (POSCO).

The Commission conducted additional meetings after issuing the SEF with BlueScope.

Non-confidential records of the meetings with BlueScope and Wright Steel / CITIC are available on the Commission's public record in accordance with subsection 269ZJ(4).

POSCO did not provide its clearance for the record of meeting with that company to be placed on the public record, and therefore the Commissioner has disregarded the matters discussed during that meeting for the purposes of this inquiry.

### **2.3.3 Identifying possible circumvention**

During its consideration of the applications, the Commission accessed import data information (based on import declarations made by importers or their agents) held by the Department of Immigration and Border Protection (DIBP) in its import database. This data covered the tariff classifications for both the goods and the circumvention goods over the length of the inquiry periods. This data forms **Confidential Attachment 1** to this report.

This data was analysed in detail and was used to identify all possible importers and exporters of goods and their trade behaviour during the applicable inquiry periods. This involved:

- identifying possible ‘switches’ of trade (noting the differing tariff classifications applicable to non-alloyed galvanised steel to alloyed galvanised steel);
- identifying potential ‘start up’ circumventors (where there was no history of trade in non-alloyed galvanised steel but trade in alloyed galvanised steel commenced following imposition of the anti-dumping measures); and
- identifying patterns of trade (examining trade in alloyed goods occurring prior to the imposition of anti-dumping measures and continuing after the imposition of these measures at similar rates).

In addition, the Commission examined BlueScope’s application to identify exporters that were named in the application as potentially being involved in circumvention activities and determined whether they should be contacted based on all other available information.

### **2.3.4 Importer and exporter questionnaires**

Once the inquiries were initiated, the Commission disseminated importer and exporter questionnaires to all parties potentially involved in the circumvention activity of the slight modification of goods.

Importer questionnaires were sent to seven entities declared in the DIBP data as potential importers of circumvention goods. Responses to the importer questionnaire were received from five importers.

Exporter questionnaires were sent to seven possible exporters of circumvention goods.

The below table identifies these suppliers and whether they responded to the exporter questionnaire and provides some details about each response.

**PUBLIC RECORD**

<b>Supplier</b>	<b>Country of supply</b>	<b>Response provided?</b>	<b>Details</b>
Union Steel Co., Ltd	Korea	Yes	Dongkuk Steel Mill Co. Ltd responded as that company merged with Union Steel Korea on 1 January 2015.
POSCO Australia Pty Ltd	Korea	No	POSCO Australia corresponded to the Commission to declare that it had not exported the circumvention goods.
Asiazone Co Ltd	Taiwan	Yes	Provided a combined response with its related company, Yieh Phui Enterprise Co., Ltd
Kenna International Corporation	Taiwan, Korea	No	Corresponded with the Commission advising they were not the exporter of the goods
Angang Steel Co., Ltd	China	No	No other correspondence received.
Bao Australia Pty Ltd	China	No	No other correspondence received.
Benxi Iron and Steel (Group) International Economic & Trading Co.	China	No	No other correspondence received.

**Table 3 – entities that exporter questionnaires were sent to for completion**

In addition, the Commission received a voluntary response to the exporter questionnaire from Dongbu Steel Co., Ltd (Dongbu) which declared that company had not exported the circumvention goods to Australia during the inquiry period.

Non-confidential versions of responses to the importer and exporter questionnaire, as well as general correspondence declaring that the goods have not been exported or imported are available on the public record.

## 2.4 Submissions received from interested parties

The Commission has received numerous submissions from interested parties during the course of the inquiries. These submissions have been listed in Table 4, below.

<b>Submitted by</b>	<b>Date</b>
Sheng Yu Steel Co., Ltd	4 June 2015
POSCO Australia Pty Ltd	4 August 2015
BlueScope Limited	11 September 2015 24 November 2015 8 February 2016
Wright Steel Sales Pty Ltd and / or CITIC Australia Commodity Trading Pty Ltd	7 August 2015 11 September 2015 25 November 2015
Yieh Phui Enterprise Co., Ltd	30 October 2015 <sup>11</sup> 25 November 2015 16 February 2016

**Table 4 – Submissions received from interested parties**

Each submission that was received prior to or no more than 20 days after publishing the SEF (that is, received by 25 November 2015) has been considered by the Commissioner in making the recommendations contained in this final report. The Commissioner has also had regard to the submissions received from interested parties after that date as the Commissioner is of the opinion that their consideration has not prevented the timely preparation of this report.<sup>12</sup>

## 2.5 Submissions following the initiation of inquiries

Following initiation of the inquiry, the Commission received submissions from Wright Steel Sales Pty Ltd (Wright Steel) and CITIC Australia Commodity Trading Pty Ltd (CITIC) as to the validity of the application generally. These issues were addressed in some detail in the SEF and have been reproduced below.

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<sup>11</sup> Although this submission was received prior to the publication of the SEF on 5 November 2015, the Commissioner did not have regard to it as to do so would have prevented the timely placement of the SEF on the public record pursuant to subsection 269ZDBF(3).

<sup>12</sup> Subsection 269TEA(4).

### 2.5.1 Matters raised in submissions surrounding the uncertain ambit of the application rendering it invalid

Wright Steel<sup>13</sup> declares that:

*the application is inadequate as to all targeted countries as there is no clear and workable indication of the goods to be covered. [BlueScope] should not be entitled to make an open-ended application in relation to goods that cannot be identified from the face of the application.*

Wright Steel asserts that ADA Article 5.2(ii), which requires a full description of allegedly dumped goods, has not been adhered to as BlueScope's application:

*does not provide any clear parameters as to which alloy goods are covered or not.*

Wright Steel's submission asserts that the application is very broad and does not provide clear parameters as to which alloy goods are covered, nor was any 'cut-off point' for addition of alloys provided, including boron.

In its 11 September 2015 submission<sup>14</sup> Wright Steel (in conjunction with CITIC who co-submitted) clarifies:

*[BlueScope] has not articulated which position it is asserting, renders the application fatally flawed, as any application of such a nature, with such drastic consequences for the viability of the businesses of other interested parties, should say what it wants. ADC should not have to guess and should not be effectively asked to make strategic choices on [BlueScope's] behalf*

Wright Steel's submission of 11 September 2015 goes on to submit that, even if a cut-off level were nominated, it would be inappropriate to identify a cut-off level as that would encourage exporters to increase levels of alloys to circumvent the notice and therefore this would be problematic.

Further, Wright Steel's submission states that interested parties have the right to know the addition of which alloys are included in the application so that they can trade in those not included with impunity. The submission goes on to highlight the difficulties Wright Steel considers result from BlueScope not identifying a 'cut-off point' for the Commission's inquiry and the Parliamentary Secretary's final decision.

#### **Commission's assessment**

The Commissioner considers that the ambit or scope of BlueScope's application is sufficiently certain, and provides interested parties with a clear indication of the nature of the circumvention activities and goods that BlueScope intended to apply for an inquiry into.

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<sup>13</sup> Submission dated 7 August 2015; item 016 on the public record refers.

<sup>14</sup> Item 021 on the public record refers.

The Commissioner's view is that BlueScope's application alleges that a slight modification of exported goods has occurred through the addition of alloying elements (for example boron) at or above a specified level, and that there is the potential for other alloys to be used in this manner. The application also requests that, should the original notices be altered, the definition of the goods subject to the notice be expanded to include:

*flat rolled iron or steel products (whether or not containing alloys) of a width less than 600mm and, equal to or greater than 600mm, plated or coated with zinc.*

It is the Commissioner's view that BlueScope's application covered all types of alloyed galvanised steel that meet the definition of an alloyed galvanised steel to provide for their classification under 7225.92.00 (statistical code 38) and 7226.99.00 (statistical code 71) of the *Customs Tariff Act 1995* (the Tariff Act), and the Commissioner has initiated these inquiries on that basis.

Specifically, the Commissioner was satisfied BlueScope's applications, in accordance with subsection 269ZDBE(2):

- met the requirements of subsection 269ZDBD were satisfied; and
- the applications established there appears to be reasonable grounds for asserting that one or more circumvention activities have taken place.

It is therefore considered that the Commissioner has fully assessed the applications and was satisfied that sufficient evidence was provided to meet the requirements. The anti-circumvention inquiries were subsequently initiated; the reasons for initiation are discussed in *Consideration Reports 290 and 298*.

In any case, the Commission notes that, as a result of the inquiry, the Commissioner's recommendations regarding the alterations that should be made to the original notice include all alloyed galvanised steel.

These findings address the issues and concerns raised in Wright Steel's submissions in relation to the breadth of examination of all alloys as well as end use concerns, noting that the assessment of whether an activity has occurred examines whether the end use of the circumvention goods is the same as before the slight modification.

The Commissioner understands the impact this application may have, and has structured its recommendations to ensure that only goods that have been slightly modified and have the same end use before and after the slight modification can be captured. Hence, the Commissioner is satisfied that the ambit of the inquiry is clear and certain.

The Commissioner notes Wright Steel's submission that the scope of the goods subject to the anti-circumvention inquiry should be narrowed to allow parties to trade in non-subject goods with impunity. The Commission highlights that trade in any alloyed galvanised steel that is of a slightly modified good for the purposes of subsection 48(2) of the the Regulation is a circumvention activity (noting the requirements of Paragraphs (a) to (e) of those provisions – see Chapter 4).

### **2.5.2 Matters raised in submissions surrounding the application not addressing each of the designated factors**

Wright Steel's 7 August 2015 submission submits the BlueScope application has a 'lack of evidence as to functionality' and focuses on import volumes and cost to produce. The Commission understands is intended to submit that the application does not properly address the functionality of boron-added galvanised steel.

The submission goes on to state:

*the regulations identify 13 non-exhaustive factors that must be considered. It would be improper to continue to conduct an investigation not grounded in sufficient attention by the applicant. It would be improper to continue to conduct an investigation not grounded in sufficient attention by the applicant to each factor, once it is evident that the applicant could easily have done more in that regard.*

#### **Commission's assessment**

It is considered that the 'factors' referred to by Wright Steel in this context relate to the factors prescribed by subsection 48(3) of the Regulation, which provides:

*For the purpose of determining whether a circumvention good is slightly modified, the Commissioner must compare the circumvention good and the good the subject of the notice, having regard to any factor that the Commissioner considers relevant, including any of the following factors...*

This subsection goes on to list 13 factors that the Commissioner may have regard to in determining whether a circumvention good is slightly modified, that is, whether the requirements of subsection 48(2)(b) of the Regulation have been satisfied.

The Commission notes that this is a non-exhaustive list of factors and that the Commissioner may consider any of those factors. The Commissioner is not required to consider all of those factors or to limit his consideration to only those factors. The Commission therefore considers that an application can be valid even though it does not address all of the factors under subsection 48(3) of the Regulation.

Further, it is not considered that, even during an inquiry, that all of these factors must be specifically considered by the Commissioner in making a determination as to whether circumvention goods have been slightly modified. This provision requires that the Commissioner must compare the goods subject to the original notices and the circumvention goods to establish whether they have been slightly modified, which may involve examining any, all or none of the listed factors.

In any case, the Commission notes that BlueScope's application does specifically address each of these factors, commencing at Page 11. It is therefore unclear why Wright Steel considers the application 'inadequate' for not addressing all of the factors of subsection 48(2) of the Regulation.

### 2.5.3 Inconsistent applications, the impact of Investigation 249's findings, and claims that dumping must be proven

In its submission dated 7 August 2015, Wright Steel highlighted that BlueScope, in its application for the publication of a dumping duty notice relating to alloyed and non-alloyed galvanised steel exported from India and Vietnam (Investigation 249), stated:

*[e]xports from Taiwan have continued, albeit at levels that are understood to be non-dumped*

Wright Steel submitted that it believes that this is an admission by BlueScope that exports from Taiwan are un-dumped. Wright Steel goes on to say that, having admitted Taiwanese galvanised steel has not been dumped:

*it is simply improper to justify treating what [BlueScope] now admits are non-dumped exports as somehow being intended to avoid an anti-dumping duty.*

Wright Steel submits that this statement, coupled with BlueScope's allegations in the applications for the anti-circumvention inquiries, shows inconsistency across BlueScope's applications and claims in relation to goods exported from Taiwan, by first stating that galvanised steel from Taiwan have been supplied at un-dumped prices, and then requesting that alloyed galvanised steel from Taiwan be brought under the scope of the original dumping duty notice.

In further support of claims that Taiwanese galvanised steel has not been supplied at dumped levels, Wright Steel highlights that the Commission's investigation into the alleged dumping of alloyed and non-alloyed steel from Vietnam and India (Investigation 249) resulted in the termination of that investigation due to the Commission not finding above-negligible levels of dumping from those countries, and consequently:

*It would be wholly unrealistic to accept the current market figures in that conclusion and then allow a circumvention case to render all alloy goods from other countries subject to unrealistic historical dumping factors not applicable in the current market.*

Wright Steel states that during Investigation 249, variable factors and exchange rate would have been assessed for a recent period of investigation, which would have made it obvious that these are vastly different to those applicable to the original notices subject to the anti-circumvention inquiries. Wright Steel considers that, in this context, bringing alloyed galvanised steel under the existing notices with the previously-established variable factors, would be 'unfairly discriminatory'.

Coupled with Wright Steel's submissions that evidence indicates that galvanised steel from Taiwan is undumped, Wright Steel submits that as per Article 11.1 and 11.2 of the *Anti-Dumping Agreement* (the ADA), the anti-dumping measures should remain in force where it is necessary to counteract dumping which is causing injury and these dumping measures should be reviewed where warranted, on the initiative of the Commission, or provided that a relevant period of time has passed, by a request from an interested party.

Wright Steel submits that, although the ADA does not include anti-circumvention provisions and there is no consensus as to whether such provisions are permitted (in domestic regimes), however if they were permitted, they would need to be consistent with the ADA.

It is considered that in making these points, Wright Steel intends to submit that, in light of BlueScope's statement that Taiwanese galvanised steel has been supplied at un-dumped prices, the Commission should consider the removal of anti-dumping measures against those goods, and further not consider the extension of those measures to alloyed galvanised steel.

Noting the above, Wright Steel goes on to submit that, even if the Commission were to entertain the notion of extending the notice to alloyed galvanised steel in light of the statement by BlueScope and findings of Investigation 249, before alloyed galvanised steel can be brought under anti-dumping measures (noting the company considers that this cannot not be done at all), it is a requirement to specifically establish that those goods have been dumped, and that the Commission has at no time made a finding of dumping in relation to these goods.

To support this contention, Wright Steel submits:

*[The] ADA makes clear that before anti-dumping measures can be imposed, an investigation must consider whether goods are being exported to Australia at dumped prices and if so, whether this caused the material injury to like goods.*

The Company goes on to state:

*Art 5.2 states that "(a)n application under paragraph 1 shall include evidence of (a) dumping, (b) injury within the meaning of Article VI of GATT 1994 as interpreted by this Agreement and (c) a causal link between the dumped imports and the alleged injury. Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph." ADA Art 5.8 states that "(a)n application under paragraph 1 shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case".*

### **Commission's assessment**

In relation to Wright Steel's claims that BlueScope has lodged inconsistent applications with the Commission based on statements made in relation to the application for Investigation 249, the Commission considers that the statement by BlueScope in its application for Investigation 249 that:

*[e]xports from Taiwan have continued, albeit at levels that are understood to be non-dumped*

is not fulsome evidence that the anti-dumping measures are no longer necessary or that alloyed steel exported from Taiwan has not been involved in a circumvention activity.

Firstly, the Commission notes that this statement in BlueScope's application for Investigation 249 appears to relate to non-alloy galvanised steel from Taiwan, and not the circumvention goods (alloyed galvanised steel) which is the subject of this inquiry.

The Commission notes that, while BlueScope may indeed consider that non-alloyed galvanised steel was exported from Taiwan to Australia at the time of that application at prices that were not dumped, the Commission cannot be satisfied that non-alloyed galvanised steel exported from Taiwan is no longer dumped without conducting a review of the variable factors applicable to those exporters.

The Commission considers there is insufficient evidence that one or more of the variable factors relevant to non-alloyed galvanised steel exported from Taiwan may have changed for it to seek (under subsection 269ZA(3)) a Parliamentary Secretary-initiated review of these measures at this stage. Although interested parties (including CITIC as an affected party) should note that they are able to apply for such a review if they consider it can be demonstrated that one or more of the relevant variable factors may have changed in accordance with section 269ZA.

Further, the Commission does not consider that the outcome of Investigation 249's findings in relation to Vietnam and India provide an indication as to whether galvanised steel (either alloyed or non-alloyed) exported from Taiwan has been dumped. The assessment of the variable factors of export price and normal value in that investigation were specific to those countries and not to Taiwan.

As detailed above, if affected parties consider that a review of the anti-dumping measures applicable to galvanised steel is warranted as the variable factors relevant to those measures have changed, they may apply for a review of those measures.

In relation to Wright Steel's submissions that in order for circumvention goods to be brought under the original notice they must have been shown to be dumping, the Commission considers that Wright Steel's interpretation of the ADA is misrepresentative of the requirements of the ADA. Articles 5.2 and 5.8 relate specifically to an application under Article 5.1 for an investigation to determine the 'existence, degree and effect of any dumping'. Consequently, these provisions relate to an application for the publication of a dumping duty notice (i.e. an original investigation) and not to an application for an anti-circumvention inquiry (which no provisions in the ADA specifically address).

The Commission does not consider that there is any requirement, either under the ADA, the Act or the Regulation that, during an anti-circumvention inquiry, the variable factors and/or dumping must be examined or established.

In any case, the test to determine whether a circumvention activity has occurred does not require consideration as to whether the circumvention goods have not been dumped, or have caused material injury to the Australian industry.

During Investigation 190a, it was established that non-alloyed galvanised steel exported from Korea, China and Taiwan was dumped and that this dumping had caused material injury to the Australian industry. The purpose of this anti-circumvention inquiry is to establish whether a circumvention activity under section 48 of the Regulation has occurred in relation to the original dumping duty notice imposed after Investigation 190a. That is, the inquiry will determine whether goods have been exported to Australia that would have otherwise been subject to the original notice (found to have been dumped) had they not been slightly modified.

#### **2.5.4 Confidentiality**

Wright Steel's 7 August 2015 submission states:

*A number of ADA provisions point to problems if this inadequate application is allowed to justify the continuation of the investigation. ADA Art 6.2 provides that "(t)hroughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests." ADA Art 6.5.1 provides that "(t)he authorities shall require interested parties providing confidential information to furnish non-confidential summaries thereof."*

*These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. A respondent to an application of this nature should be able to see BLS's assertions as to each of the 13 factors. This is not the case with this application.*

This statement follows Wright Steel's discussion of the application's examination of 'factors'.

#### **Commission's assessment**

In relation to Wright Steel's submission regarding confidentiality issues in the application, it is unclear to the Commission as to what confidential information in the application Wright Steel is asserting has been redacted by BlueScope but has not been replaced by a sufficiently detailed non-confidential summary thereof.

If this relates to BlueScope's discussion of the 13 factors under subsection 48(3) of the Regulation, it is observed that the BlueScope application, available on the Commission's electronic public record, does not redact any information relating to those factors.

In general, the Commission considers that a sufficiently detailed non-confidential version of the application was provided by BlueScope and this has been placed on the Public Record since the date of initiation of the inquiries.

## 2.6 Statement of Essential Facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows under subsection 269ZHI(3), place on the public record a statement of the essential facts on which the Commissioner proposes to base his recommendation to the Parliamentary Secretary.<sup>15</sup>

In formulating the statement of essential facts the Commissioner must have regard to the application concerned, and any submissions concerning publication of the notice that are received within 37 days after the date of initiation of the inquiry,<sup>16</sup> and may have regard to any other matters that he considers to be relevant.<sup>17</sup>

The public notice of the initiation advised that the SEF for inquiries 290 and 298 would be placed on the public record by 23 August 2015 and 21 September 2015 respectively.

The Parliamentary Secretary granted extensions of 74 and 45 days to the date for the publication of the SEFs for inquiries 290 and 298 respectively, aligning both inquiries to the same timeframe. These extensions required the SEFs to be published by 5 November 2015, and the final reports and recommendations to be provided to the Parliamentary Secretary by 21 December 2015. ADN Nos. 2015/103 and 2015/105 provide further details and are available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

The SEF was published on 5 November 2015.

Subsequently, the Parliamentary Secretary granted a further extension of time, requiring the Commissioner to provide his final report by no later than 28 February 2016 (ADN No. 2015/148 refers). As this date falls on a weekend, the final report is due to be provided to the Parliamentary Secretary by no later than the next business day, 29 February 2016.

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<sup>15</sup> Subsection 269ZDBF(1).

<sup>16</sup> Subsection 269ZDBF(2)(a).

<sup>17</sup> Subsection 269ZDBF(2)(b).

### 3 THE GOODS SUBJECT TO MEASURES

#### 3.1 The goods

The goods the subject of the original notices are:

*flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc*

The goods are generically called non-alloyed galvanised steel. Painted galvanised steel, pre-painted galvanised steel, electro-galvanised plate steel and corrugated galvanised steel are specifically excluded from the original notices.

A full description of the goods is available in Australian Customs Dumping Notice (ACDN) No. 2012/40 (relating to the initiation) and ACDN No. 2012/62 (relating to the clarification of the goods). These ACDNs are available on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

##### 3.1.1 Tariff classification

The goods are classified to the following tariff subheadings of Schedule 3 to the Tariff Act.

- 7210.49.00 (statistical codes 55, 56, 57 and 58) - applicable to flat rolled zinc coated non-alloy steel of a width of 600mm or more; and
- 7212.30.00 (statistical code 61) - applicable to flat rolled zinc coated non-alloy steel of a width of less than 600mm.

##### 3.1.2 Tariff Concession Orders

Additionally, the relevant Minister has granted exemptions from the anti-dumping measures imposed by the original notices under subsections 8(7)(b) and 10(8)(aa) of the Dumping Duty Act in relation to goods the subject of the following tariff concession orders (TCOs):

TCO Number	Date of effect of exemption
TC 0939596	6 February 2013
TC 1242989	
TC 1248929	
TC 1248930	
TC 1317796	
TC 1349350	
TC 1349351	
TC 1349352	
TC 1349354	
TC 1309160	13 June 2013
TC 1316841	4 September 2013

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TC 1316842	
TC 1318527	21 October 2013
TC 1328432	18 December 2013
TC 1342242	20 March 2014

**Table 5 – TCOs that exemptions relate to**

These TCOs contain details as to the specific physical characteristics of the exported goods subject to those orders, including physical dimensions, alloy levels, applicability with specific standards, yield and tensile strength, and whether the product is ‘galvannealed’.<sup>18</sup>

These TCOs generally relate to very specific and specialised categories of galvanised steel.

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<sup>18</sup> The combined process of galvanizing and annealing to produce specialised sheets of steel.

## 4 THE CIRCUMVENTION GOODS

### 4.1 Legislative framework

Section 269ZDBB(6) of the Act provides that a circumvention activity may occur in circumstances prescribed by the regulations. Section 48 of the Regulation prescribes that the slight modification of goods is a circumvention activity.

#### 4.1.1 Circumvention activity – slight modification of goods

Subsection 48(2) of the Regulation provides that a circumvention activity occurs where all of the following apply:

- a) goods (the ***circumvention goods***) are exported to Australia from a foreign country in respect of which the dumping and / or countervailing duty notice applies;
- b) before that export, the circumvention goods are slightly modified;
- c) the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified;
- d) had the circumvention goods not been so slightly modified, they would have been the subject of the notice;
- e) Section 8 or 10 of the Dumping Duty Act, as the case requires, does not apply to the export of the circumvention goods to Australia.

#### 4.1.2 When is a circumvention good “slightly modified”?

Subsection 48(3) of the Regulation sets out how the Commissioner should determine whether a circumvention good is slightly modified, including a non-exhaustive list of factors that may be relevant to the comparison of the circumvention good and the goods subject to measures.

The subsection states:

*For the purpose of determining whether a circumvention good is slightly modified, the Commissioner must compare the circumvention good and the good the subject of the notice, having regard to any factor that the Commissioner considers relevant, including any of the following factors:*

- a) *each good’s general physical characteristics;*
- b) *each good’s end use;*
- c) *the interchangeability of each good;*
- d) *differences in the processes used to produce each good;*
- e) *differences in the cost to produce each good;*
- f) *the cost of modification;*
- g) *customer preferences and expectations relating to each good;*
- h) *the way in which each good is marketed;*
- i) *channels of trade and distribution for each good;*
- j) *patterns of trade for each good;*
- k) *changes in the pricing of each good;*
- l) *changes in the export volumes for each good;*

m) tariff classifications and statistical codes for each good.

## 4.2 Defining “the circumvention goods”

The goods subject to the anti-circumvention inquiries (the circumvention goods), for the purposes of subsection 48(2)(a) of the Regulation, are described as:

*Flat rolled iron or steel products containing alloys of a width less than 600mm and, equal to or greater than 600mm, plated or coated with zinc.*

For the purposes of this report, the circumvention goods are referred to as ‘alloyed galvanised steel’ or as ‘the circumvention goods’ unless defined otherwise.

### 4.2.1 Tariff classifications of the circumvention goods

Alloyed galvanised steel is classified to tariff subheadings:

- 7225.92.00 (statistical code 38); and
- 7226.99.00 (statistical code 71)

of Schedule 3 to the Tariff Act. Goods exported under these tariff subheadings are not currently subject to the measures referred to in the original notices.

### 4.2.2 Identifying and classifying the circumvention goods

Note 1(f) to Chapter 72 (iron and steel) of Schedule 3 of the Tariff Act provides that, in order for a product to be considered of ‘other alloy steel’ (required to be classified to the above codes relating to alloyed galvanised steel), the below must be satisfied:

*Steels not complying with the definition of stainless steel and containing by weight one or more of the following elements in the proportion shown:*

- 0.3% or more of aluminium
- 0.0008% or more of boron
- 0.3% or more of chromium
- 0.3% or more of cobalt
- 0.4% or more of copper
- 0.4% or more of lead
- 1.65% or more of manganese
- 0.08% or more of molybdenum
- 0.3% or more of nickel
- 0.06% or more of niobium
- 0.6% or more of silicon
- 0.05% or more of titanium
- 0.3% or more of tungsten (wolfram)
- 0.1% or more of vanadium
- 0.05% or more of zirconium
- 0.1% or more of other elements (except sulphur, phosphorus, carbon and nitrogen), taken separately.

Galvanised steel that does not meet these parameters should be classified to 7210.49.00 (statistical codes 55, 56, 57 and 58) and 7212.30.00 (statistical code 61) and is considered to be non-alloy galvanised steel.<sup>19</sup>

#### 4.2.3 Commission's observations of the circumvention goods

##### **Physical characteristics**<sup>20</sup>

The Commission notes that BlueScope's applications and submissions to the investigation on the physical differences between alloyed and non-alloyed galvanised steel have focused on the addition of boron to galvanised steel at a level at or above 0.0008% concentration, but have also referred to the possibility of the addition of other alloys (such as chromium). The quantity and type of alloys present can be established through testing, which routinely occurs at the mill. Variations in the alloys present would not be able to be determined by simply looking at the product; in that sense, the goods and the circumvention goods appear identical.<sup>21</sup> No submissions have been received, nor evidence obtained by the Commission, to suggest otherwise.

##### **Each good's end use**<sup>22</sup>

The original investigation established that there are a wide range of applications to which galvanised steel can be put:

*In the building and construction industry examples of end use applications for galvanised steel include; commercial and industrial buildings light structural sections (purlins and girts); structural sections for carports, sheds and garages; plastering and ceiling accessories; garage door tracks; structural nail-plates, post stirrups, frame connectors and bracing for timber frames.*

*In the manufacturing industry examples of end use applications for galvanised steel include; feedstock as input for pipe and tube manufacture; air-conditioning ducting; cable trays; components in domestic appliances; hot water system components; electrical meter cabinets; tool-boxes; meter boxes; grain silos components and general manufactured articles.*

*Galvanised steel is supplied to automotive components (i.e. brakes parts) and Original Equipment Manufacturer (OEM) automotive markets.<sup>23</sup>*

In the course of conducting these inquiries the Commission received advice from a range of interested parties that alloyed galvanised steel may be suitable for several of these applications. The Commission has also observed that alloyed galvanised steel has been present in the market since before the measures were imposed by the original notices.

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<sup>19</sup> Section 3.1.1 of this report refers.

<sup>20</sup> Subsection 48(3)(a) of the Regulation.

<sup>21</sup> Refer to the BlueScope Record of Meeting – 27 May 2015 site visit.

<sup>22</sup> Subsection 48(3)(b) of the Regulation.

<sup>23</sup> Report No. 190, page 48.

However, interested parties have also noted that the addition of boron as an alloy in galvanised steel can adversely affect its performance in certain welding applications under certain conditions. Interested parties strongly contest, for example, whether the presence of boron in alloyed galvanised steel is generally required by the broader market for legitimate purposes. The interested parties generally agree, however, that boron (and other alloys) can be used to manufacture galvanised steel with particular engineered properties that have relevant applications in the Australian market.

BlueScope submitted in its application that the uses for galvanised steel have not changed since the imposition of the anti-dumping measures in August 2013. No submissions have been received, nor evidence obtained by the Commission, to suggest otherwise.

### **Differences in the processes used to produce each good**<sup>24</sup>

In terms of manufacturing processes, BlueScope's application explained that the production process to manufacture both the circumvention goods and the goods the subject of the original notices are essentially the same. The Commission is satisfied that the only difference in the manufacturing process is the inclusion or exclusion in the liquid steel (that is, prior to casting, rolling and galvanising) of alloying elements in the concentrations detailed in section 4.2.2.

In practice, a manufacturer of galvanised steel that was not also an integrated steel manufacturer would need to order steel slabs or hot rolled coil (HRC) of the relevant grade – that is, already containing the relevant alloy(s) – in order to be able to produce either alloyed or non-alloyed galvanised steel.

### **The cost of modification**<sup>25</sup>

BlueScope's application included a calculation regarding the anticipated impact on costs to a fully-integrated steel manufacturing process<sup>26</sup> to add boron to liquid steel to meet the 0.0008% chemical composition requirement to be defined as an alloy. BlueScope estimates that the additional cost of producing a boron-alloyed slab of steel would be \$0.45/metric tonne of steel. BlueScope has submitted that there would be no further changes in the cost to make alloyed steel by an integrated manufacturer of alloyed galvanised steel than this alloy input cost.<sup>27</sup> Other cooperating exporters and importers provided alternative estimates of the cost of adding boron to steel slab in order to produce alloyed galvanised steel.

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<sup>24</sup> Subsection 48(3)(d) of the Regulation.

<sup>25</sup> Subsection 48(3)(f) of the Regulation.

<sup>26</sup> Where the steel is made from iron ore and other raw materials.

<sup>27</sup> Refer to the BlueScope Record of Meeting – 27 May 2015 site visit.

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Notwithstanding that the cost estimates obtained differ, the Commission is satisfied that the additional cost is a very small proportion of the total cost to make and sell alloyed galvanised steel, and largely reflects the cost of obtaining boron in the market and the very small amount of boron required. Naturally, the Commission considers that the use of other alloying elements (such as chromium) would represent a different proportion of the cost to make and sell depending on prevailing metal prices and the proportion of the alloy required.

## 5 CIRCUMVENTION OF THE ANTI-DUMPING MEASURES

### 5.1 Summary of findings

The Commissioner has found that the following entities have engaged in circumvention activity through the slight modification of goods:

Exporter	Country of export
Yieh Phui Enterprise Co., Ltd	Taiwan
Angang Steel Co., Ltd	China
Benxi Iron and Steel (Group) International Economic & Trading Co.	China

Table 6 – Entities that engaged in circumvention activities

### 5.2 Commissioner’s assessment of whether goods were slightly modified

Under subsection 48(3) of the Regulation, to determine whether the circumvention goods were slightly modified, the Commissioner must compare the circumvention goods and the goods the subject of the original notice, having regard to any factor that the Commissioner considers relevant, which may include the thirteen factors listed in that subsection.

In the following sections, the Commission has considered the factors of subsection 48(3) under the following categories:

- patterns of trade<sup>28</sup> and changes in export volumes;<sup>29</sup>
- physical differences;<sup>30</sup>
- manufacturing cost<sup>31</sup> and selling price;<sup>32</sup>
- marketing<sup>33</sup> and trade channels / distribution;<sup>34</sup> and
- interchangeability,<sup>35</sup> end use<sup>36</sup> and customer preferences and expectations.<sup>37</sup>

This specifically addresses twelve of the thirteen subsection 48(3) factors.

<sup>28</sup> Subsection 48(3)(j) of the Regulation.

<sup>29</sup> Subsection 48(3)(l) of the Regulation.

<sup>30</sup> Subsection 48(3)(a) and (d) of the Regulation.

<sup>31</sup> Subsection 48(3)(e) and (f) of the Regulation.

<sup>32</sup> Subsection 48(3)(k) of the Regulation.

<sup>33</sup> Subsection 48(3)(h) of the Regulation.

<sup>34</sup> Subsection 48(3)(i) of the Regulation.

<sup>35</sup> Subsection 48(3)(c) of the Regulation.

<sup>36</sup> Subsection 48(3)(b) of the Regulation.

<sup>37</sup> Subsection 48(3)(g) of the Regulation.

In relation to the final factor, tariff classification, as outlined in Chapters 3 and 4, alloyed and non-alloyed galvanised steel fall under different tariff classifications in Schedule 3 of the Tariff Act.

In respect of exporters for which no exporter questionnaire response has been received, the Commission relies on all available information, such as that provided by BlueScope, information provided by other interested parties and information obtained from previous investigations.

### 5.3 Yieh Phui Enterprise Co. Ltd / Asiazone Co Ltd

A combined exporter questionnaire response has been received from Yieh Phui Enterprise Co. Ltd (Yieh Phui) and its related Hong Kong based trading company, Asiazone Co Ltd (Asiazone).

#### 5.3.1 Overview

CITIC was identified by the Commission as a possible importer of the circumvention goods from Asiazone and was requested to complete an importer questionnaire. CITIC completed this questionnaire and identified Asiazone as its supplier of alloyed galvanised steel.

CITIC and Wright Steel provided submissions to the inquiry in relation to goods supplied by Asiazone. As detailed in the importer visit report for CITIC during the original investigation available on that investigation's public record:

*CITIC Australia advised...it [has] engaged in [an]... arrangement with Wright Steel Sales Pty Ltd (Wright Steel) in relation to the import and sale of steel products.*

#### 5.3.2 Assessment against subsection 48(2) of the Regulation

##### 5.3.2.1 Have the circumvention goods been exported to Australia from a foreign country in respect of which the notice applies? (48(2)(a))

As outlined above, the Commission has accessed DIBP import data for all importations during the inquiry period of goods classified to tariff 7225.92.00 (statistical code 38) and 7226.99.00 (statistical code 71), which relate to alloyed galvanised steel. This data forms **Confidential Attachment 1**.

Examination of this data shows that goods supplied by Asiazone to Australia during the inquiry period were entered under these tariff classifications, declared as having originated in Taiwan. The import data accessed by the Commission shows that the supply of alloyed galvanised steel by Asiazone to Australia commenced in the last quarter of the 2013 calendar year. This was confirmed by the company in its response to the exporter questionnaire.

In the combined response to the exporter questionnaire, Asiazone and Yieh Phui confirmed that the companies have been involved in the manufacture and export of alloyed galvanised steel to Australia during the inquiry period. Specifically, Asiazone and Yieh Phui's response outlined the following:

- Yieh Phui manufactures alloyed galvanised steel in Taiwan;
- Yieh Phui sells these goods to Australia through Asiazone;
- Yieh Phui is aware of the final customer and destination of the goods when making this sale, and plays a role in negotiating the terms of the sale; and
- Yieh Phui directly ships the goods from Taiwan to the Australian customer.

In addition, Yieh Phui provided a detailed listing of its sales to Australia (via Asiazone) during the inquiry period. This listed sales of both non-alloy and alloyed (boron-added) galvanised steel. This forms **Confidential Attachment 2**. Yieh Phui submitted in its questionnaire response that all alloyed galvanised steel exported to Australia during the inquiry period was boron-added steel and not an alloy of a different alloying element.

As outlined above, CITIC has identified that it purchases the alloyed galvanised steel directly from Asiazone. In light of the above, the Commission is satisfied that circumvention goods are exported to Australia from Taiwan.

*Who is the exporter?*

In light of the above information from Yieh Phui and Asiazone's combined exporter response, the Commission considers Yieh Phui to be the exporter of alloyed galvanised steel supplied to Australia by Asiazone during the inquiry period. This is consistent with the findings of Investigation 190a in relation to Yieh Phui.

**5.3.2.2 Before that exportation, were the circumvention goods slightly modified? (48(2)(b))**

**Patterns of trade and export volumes**

As detailed above, Yieh Phui declared that it commenced exporting alloyed galvanised steel to Australia in the last quarter of calendar year 2013, after the publication of the original notice. This is confirmed by the Australian sales listing submitted by the company (**Confidential Attachment 2**) in its exporter questionnaire response and the import data obtained from DIBP (**Confidential Attachment 1**).

The Commission observes that this data shows that there was a corresponding decline in Yieh Phui's exports of non-alloy galvanised steel at levels similar to the increase in volumes of the alloyed goods from the final quarter of calendar year 2013. This data also shows that the total volume of galvanised steel (alloyed and non-alloyed combined) exported to Australia remained stable from financial year 2013 (before the export of alloyed galvanised steel) through to financial year 2015.<sup>38</sup>

In its response to the exporter questionnaire, Yieh Phui submitted that it had made sales of alloyed galvanised steel during the inquiry period to third countries. The company provided a detailed sales listing of all sales of alloyed galvanised steel to third countries during the inquiry period.

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<sup>38</sup> The inquiry period only covers Q1 – Q3 of financial year 2015. The data provided by Yieh Phui has been pro-rated for the purposes of this analysis.

The Commission does not have access to Yieh Phui's total third country sales data throughout the inquiry period. However, it has compared the volume of alloyed goods sold to third countries during the investigation period for Investigation 190a (1 July 2011 – 30 June 2012) and notes that these exports represent a negligible volume of total exports of galvanised steel to third countries by Yieh Phui. The Commission also notes that this third country sales data does not include country of destination, and hence the Commission is unable to undertake analysis of the export destinations.

Yieh Phui's questionnaire response declared that the company sold 'a small amount' of alloyed galvanised steel on the domestic market during the inquiry period, and provided a domestic sales listing of these sales for the inquiry period.

As with third country sales, the Commission calculated the volume of domestic sales of alloyed galvanised steel as a percentage of all domestic sales of galvanised steel during the investigation period of Investigation 190a and found this volume to be negligible.

The Commission has compared the alleged circumvention goods to the goods subject to the original notice and found patterns of trade that suggest shipments of alloyed galvanised steel have replaced shipments of non-alloyed galvanised steel. This suggests that alloyed galvanised steel and non-alloyed galvanised steel are likely to be substantially interchangeable, have the same end use and each fulfil similar customer preferences and expectations.

#### Physical differences

In its questionnaire response, Yieh Phui identified that it had exported alloyed galvanised steel during the inquiry period. Yieh Phui's response discussed the boron content of its alloyed galvanised steel, submitting that it was significantly higher than the 0.0008% required to be considered an alloyed product under the relevant tariff classifications.

As per the requirements of the questionnaire, Yieh Phui's Australian sales listing included line-by-line information as to the boron level in the galvanised steel sold to Australia during the inquiry period. In addition, Yieh Phui provided source documentation for eight selected sales in this listing, including a mill certificate for each. The Commission observed from these mill certificates that these goods contained alloys as recorded in the Australian sales listing.

The Commission observes that this export sales listing from Yieh Phui identifies that some exports were of boron-added alloyed galvanised steel only marginally above the 0.0008% concentration, while other exportations showed levels of boron of levels that were substantially higher, though at no time were these levels close to that seen for exports of alloyed galvanised from another supplier, which the Commission is satisfied was of specialised steel for automotive components.

Yieh Phui's exporter questionnaire response did not address claims as to the physical differences between its alloyed and non-alloyed galvanised steel (though focus was placed on interchangeability and end use – see later discussion).

In its response to the exporter questionnaire, Yieh Phui described its manufacturing process of alloyed galvanised steel and non-alloyed galvanised steel, which involves purchasing already-manufactured HRC and galvanising this (i.e. not a fully integrated steel making process). In this response, Yieh Phui advised that its manufacturing process for alloyed galvanised steel and non-alloyed galvanised steel 'is generally the same', noting that both alloyed and non-alloyed galvanised steel were manufactured to either the Australian Standard or Japanese Industrial Standards.

The company explained that the main difference in the manufacturing process of alloyed galvanised steel compared to non-alloyed galvanised steel is that the company purchases alloyed HRC to feed into its manufacturing process (instead of non-alloyed HRC).

In addition to the difference of using alloyed HRC as opposed to non-alloyed, Yieh Phui submitted that there are some other differences in manufacturing conditions between alloyed galvanised steel and non-alloy galvanised steel manufactured, specifically:

- alloyed HRC has a thinner scale on the surface than non-alloy hot-rolled steel, which generally makes it easier for Yieh Phui at the pickling process to remove this scale;
- alloyed HRC is easier to be trimmed, which means there are fewer defects (such as edges cracks and burrs) found on alloyed hot-rolled steel after the trimming process; and
- alloyed HRC is easier to be cold-rolled in order to reduce the steel thickness as the alloyed HRC has a lower level of steel strength than that of non-alloyed HRC (meaning less rolling force and electricity is needed to cold roll the HRC).

The Commission has compared the alleged circumvention goods exported by Yieh Phui to the goods subject to the original notice and considers that the physical characteristics of both goods are similar, with the main difference being the presence of the alloy boron at levels at or above 0.0008% (but not at levels seen in specialised automotive steel).

Further, the Commission is satisfied that the manufacturing process of the goods subject to the original notices and the circumvention goods are similar, with the difference in the case of goods exported by Yieh Phui being the purchase of alloyed HRC instead of non-alloyed HRC and all other processes being substantially similar, though some additional benefits to trimming, rolling and scale removal may exist.

#### Manufacturing cost and selling price

Yieh Phui's response to the exporter questionnaire advised that its supplier charged an additional cost for the supply of alloyed HRC compared to non-alloyed HRC, providing their supplier's pricing extras sheet to demonstrate this. The Commission confirms that this price extras sheet indicates specific price extras per tonne of boron-added galvanised steel, the quantum of which is dependent on the type of galvanised steel itself (i.e. specification).

The Commission has accessed verified data for Yieh Phui's cost of HRC purchases submitted to the original investigation (Investigation 190a) into galvanised steel and observes that this pricing extra would represent a very small percentage of the purchase price of alloyed HRC, and of the total cost to make alloyed galvanised HRC.

The exporter questionnaire requested that Yieh Phui provide data that would determine the total difference in cost to make and sell alloyed HRC compared to non-alloyed HRC. Due to limitations of the company's accounting record, this has not been able to be provided.<sup>39</sup>

Yieh Phui's response to the exporter questionnaire submitted:

- its sales process remained the same for both non-alloyed and alloy galvanised steel; and
- during the inquiry period, the company had a policy of charging a set amount per metric tonne extra to its customers for the purchase of alloyed galvanised steel as opposed to non-alloyed galvanised steel.

As mentioned above, Yieh Phui provided a listing of all sales of alloyed galvanised steel and non-alloyed galvanised steel to Australia during the inquiry period (**Confidential Attachment 2**), which included selling price information. The Commission's analysis shows that the premium declared to be charged by Yieh Phui for alloyed galvanised steel represents a very small percentage of the total selling price.

The Commission has compared the alleged circumvention goods to the goods subject to the original notice and have found that the addition of boron to galvanised steel to make alloyed galvanised steel has a small to negligible impact on Yieh Phui's cost to produce those goods when compared to the goods subject to the original notice, resulting from the purchase of the more expensive alloyed HRC from Yieh Phui's suppliers.

#### Marketing and trade channels/distribution

In its response to the importer questionnaire, CITIC confirmed that its order and purchase process from Asiazone does not differ for non-alloyed and alloy galvanised steel, except for the fact that CITIC is required to specify whether they would like to order non-alloyed or alloyed steel when placing their order. Yieh Phui, in their exporter questionnaire submitted that the company did not market alloyed galvanised steel differently to non-alloyed galvanised steel, though it did inform its Australian customer of the benefit of adding boron to galvanised steel.

The Commission has compared the alleged circumvention goods to the goods subject to the original notice and have found there is little difference between the ordering and sales transaction of Yieh Phui's alloyed galvanised steel compared to its non-alloyed galvanised steel. The Commission has found there is no difference in the trade channels and distribution methods between alloyed and non-alloyed galvanised steel and both products are marketed in the same way.

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<sup>39</sup> See the company's response to the exporter questionnaire for further details.

Interchangeability, end use, customer preference and expectations

In its exporter questionnaire response, Yieh Phui indicated that the main purpose of switching from non-alloyed galvanised steel to boron added galvanised steel is to 'minimise the strain ageing effect' of the galvanised steel. Specifically, Yieh Phui's questionnaire response submitted that its supply of alloyed galvanised steel to Australia arose in 2013 after requests from its customer for a solution to minimise the 'strain ageing effect' on the steel.

Yieh Phui submits that:

*strain ageing is a phenomenon known as the later reappearance of strength of steel at a higher level over a certain period of time after the production of steel is completed. The reappearance of a higher level of strength results in a loss of some ductility and formability of steel. Therefore, the finished goods which have been stored in the warehouse by the downstream customer for a longer time period is usually harder to be processed.*

Yieh Phui explained that it offers boron-added galvanised steel to address this issue, as its past experience has demonstrated that a certain amount of boron minimises the strain ageing effect of steel. In addition, Yieh Phui submitted that it has experienced that the addition of boron to galvanised steel 'enhances the formability' of the steel.

The company submitted that the inclusion of boron in its galvanised steel therefore makes the exported products suitable for Australian downstream customers that keep the steel in inventory for longer periods of time and have 'greater demand on the formability of steel'. Yieh Phui submitted that, in order for the strain aging effect to be minimised, the boron percentage in the steel must be higher than the 0.0008% required to be considered alloyed steel, making reference to the company's submission that the boron level in its exports of alloyed galvanised steel are above this percentage.

In terms of end use of the galvanised steel, Yieh Phui's questionnaire response stated:

*The majority of both the non-alloy galvanized steel and alloyed galvanized steel that Yieh Phui exported to Australia during the inquiry period was used by the downstream processors in Australia to make purlin for building constructions. There is no difference in purposes or end uses between the non-alloy galvanized steel and alloyed galvanized steel that Yieh Phui exported to Australia during the inquiry period.*

In addition, Yieh Phui submitted that both the alloyed galvanised steel and non-alloyed galvanised steel it exported to Australia can be used interchangeably. To conclude, Yieh Phui's exporter questionnaire submitted that:

*...it is Yieh Phui's position that the boron-added galvanized steel it shipped to Australia is not a product with a slight modification of boron-free galvanized steel exported to Australia. Instead, the boron-added galvanized steel Yieh Phui shipped to Australia and other countries is a product different from the boron-free galvanized steel that the customer usually has to specifically order for it.*

CITIC's response to the importer questionnaire confirmed Yieh Phui's submission that the main driver behind switching from non-alloyed galvanised steel exports to boron added alloyed galvanised steel is the beneficial impact boron has on the galvanised steel. In terms of use, CITIC advised that in some cases, the goods can be used interchangeably, but in many cases the alloyed galvanised steel is beneficial. CITIC's importer questionnaire response submitted 'we sell to various parts of the market', indicating that the end use of the imported goods is more than for purlin as explained in Yieh Phui's questionnaire response.

In general submissions to the inquiry, CITIC and Wright Steel further addressed the benefits of adding boron to galvanised steel, raising the following issues:

- BlueScope have provided no evidence as to why the addition of boron is not beneficial to galvanised steel; and
- studies exist to show the beneficial impact of boron on steel, including during the 'continuous annealing process'.

Following publication of Yieh Phui's exporter questionnaire on the Public Record, BlueScope lodged a submission<sup>40</sup> refuting Yieh Phui's claims that the alloyed galvanised steel exported by Yieh Phui was a different product to non-alloy galvanised steel.

BlueScope submitted:

- Yieh Phui's claims that a new market requirement for the minimising of strain aging in galvanised steel occurred at the same time as the anti-dumping measures being imposed are disingenuous;
- BlueScope does not add boron to its galvanised steel and has and continues to supply around two-thirds of the Australian market volume for galvanised steel;
- BlueScope supplies non-alloyed galvanised steel to the same customers and end-users as Yieh Phui,
- there have been no changes in customers buying galvanised steel, no changes to downstream processing and no change in the ultimate end uses of galvanised steel;
- BlueScope has not seen a market request to supply galvanised steel that is free from or has minimised strain aging effect;
- Yieh Phui's claim of adding boron to minimise strain aging appearance of galvanised steel is technically correct, but is incomplete as:
  - the levels of boron in Yieh Phui's alloy galvanised steel are metallurgically insufficient to achieve the intent of controlling stretcher strain; and
  - nitrogen and carbon cause stretcher strain and while boron may impact the effect of nitrogen, it does not control carbon;
- strain ageing or 'stretcher strain' is essentially a visual blemish and there is no technical or aesthetic requirement or market-driven requirement for any of the commercial quality forming grades or structural grades of galvanised steel to be free from or have reduced stretcher strain;

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<sup>40</sup> Dated 11 September 2015

- non-strain ageing or minimal strain-ageing steel is only required in the Australian market and globally for low strength formable galvanised steel grades, which require a special steel type known as ‘Interstitial free’ steel that eliminates both carbon and nitrogen; and
- there are some grades of galvanised steel where boron is beneficially used, but these are special grades for specific applications which are mostly automotive and are in relatively low volumes.

The Commission has compared the alleged circumvention goods to the goods subject to the original notice and found alloyed galvanised steel and non-alloyed galvanised steel are likely to be substantially interchangeable, have the same end use and each fulfil similar customer preferences and expectations.

#### Summary of findings and conclusion

The Commission considers that the balance of evidence supports a finding that alloyed galvanised steel exported by Yieh Phui during the inquiry period has been slightly modified through a minor change to the manufacturing process. This modification occurred through the purchase and use of alloyed HRC instead of non-alloyed HRC prior to production of the circumvention goods in Taiwan, and hence occurred before the exportation of those goods.

The Commission considers that the available evidence demonstrates that when comparing the alleged circumvention goods with the goods the subject of the notice the following observations have been made:

#### *Patterns of trade and export volume:*

The pattern of trade for goods exported to Australia, whereby all exports were previously supplied by non-alloyed galvanised steel prior to a switch to alloyed galvanised steel, indicates that the alloyed galvanised steel is being supplied through the same trade channels and used in the same end uses as the non-alloyed galvanised steel exported prior to this shift.

#### *Physical differences:*

The main physical characteristics are essentially the same, the only physical difference being the addition of boron in concentrations higher than 0.0008%. The adding of boron to galvanised steel to make alloyed galvanised steel requires minor adjustments to Yieh Phui’s manufacturing process and has little to no impact on the physical characteristics of the steel.

#### *Manufacturing cost and selling price:*

The addition of boron to galvanised steel to make alloyed galvanised steel has a small to negligible impact on Yieh Phui’s cost to produce those goods, resulting from the purchase of the more expensive alloyed HRC from Yieh Phui’s suppliers. Yieh Phui charges a small to negligible extra premium on the selling price of alloyed galvanised steel compared to non-alloyed galvanised steel.

*Marketing and trade channels/distribution:*

There is little difference between the ordering and sales transaction of Yieh Phui's alloyed galvanised steel compared to its non-alloyed galvanised steel. There is no difference between the trade channels and distribution of alloyed and non-alloyed galvanised steel and both products are marketed in the same way.

*Interchangeability, end use and customer preferences and expectations:*

The end use of non-alloyed and alloyed galvanised steel exported by Yieh Phui in the inquiry period is the same. While most parties agree that both alloyed galvanised steel and non-alloyed galvanised steel exported by Yieh Phui are interchangeable, CITIC claims that there will be cases where alloyed galvanised steel is beneficial in comparison to non-alloyed galvanised steel, suggesting there is not complete interchangeability between products.

The Commission considers that alloyed galvanised steel and non-alloyed galvanised steel are likely to be substantially interchangeable, even in cases where the steel has been stored for a long time. Customers have requested goods which minimise the strain ageing effect due to longer shelf life resulting in the non-alloy galvanised steel being more difficult to process.

However, there are conflicting views as to whether the addition of boron in the levels seen in the alloyed galvanised steel exported by Yieh Phui is beneficial in minimising the strain ageing effect of the steel, or whether the strain ageing effect of galvanised steel is in fact a market issue that requires addressing.

Whilst the Commission considers that while there may be some benefit to the addition of boron to minimise the strain ageing effect of steel that has been stored for long periods allowing for easier use, this problem is unlikely to have only emerged in the final quarter of calendar year 2013 when Yieh Phui began exporting alloyed galvanised steel. No evidence has been presented which suggests that the addition of boron for this purpose is a recent discovery. Further, the analysis in **Confidential Attachment 1** suggests that economic activity in the major end user markets, comprising construction (referring to Australian Bureau of Statistics data for series 8752.0 – *Value of Work Done, Chain Volume Measures*) and manufacturing (referring to the Australian Industry Group *Performance of Manufacturing Index* covering the period from 2010 to 2015 for metal products, machinery and equipment), suggests a different pattern of demand to that suggested by Yieh Phui.

Additionally, the Commission considers BlueScope and importers of non-alloyed galvanised steel are likely to be supplying end users who store the galvanised steel for similar periods of time to the end users of steel exported by Yieh Phui, and this issue is unlikely to be limited to customers of Yieh Phui's steel, noting that:

- the Commission has found during Investigation 190a into galvanised steel, and during the recent investigation into galvanised steel from Vietnam and India (Investigation 249) that the key market segments for galvanised steel are the building and construction industry segment (largest consumer by volume) and the smaller manufacturing industry segment;
- CITIC has advised that they supply to ‘various parts of the market’, indicating it sells to these market segments; and
- the Commission found in Investigation 190a and Investigation 249 that BlueScope supplies non-alloyed galvanised steel to both of the key market segments. BlueScope has not seen any market segment request for reduced strain ageing.<sup>41</sup>

**5.3.2.3 Is the use or purpose of the circumvention goods the same before and after the slight modification? (48(2)(c))**

For a detailed discussion of use or purposes of non-alloy and alloyed galvanised steel exported by Yieh Phui to Australia, refer to the discussion of subsection 48(2)(b) of the Regulation above.

Following analysis of all available information, the Commission is satisfied that the use or purpose of the circumvention goods are the same before and after the slight modification of those goods.

**5.3.2.4 Had the circumvention goods not been slightly modified, would they have been subject to the original notice? (48(2)(d))**

As detailed in Chapter 2, the goods subject to the original dumping duty notice are:

*“flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc.”*

Painted galvanised steel, pre-painted galvanised steel, electro-galvanised plate steel and corrugated galvanised steel are specifically excluded from the original dumping duty notice. Additionally, the relevant Minister has granted exemptions from the anti-dumping measures imposed by the original dumping duty notice to goods subject to 15 TCOs.

As detailed above, the Commission has found that a slight modification has been made to the circumvention goods exported by Yieh Phui through the use of alloyed (boron-added) HRC in its manufacturing process of galvanised steel (as opposed to using unalloyed HRC). The use of boron-added HRC results in the production of alloyed galvanised steel. The Commission is satisfied that, had Yieh Phui not used alloyed HRC in its manufacturing process and continued to use non-alloyed HRC, the galvanised steel produced by the company would be correctly classified as non-alloyed galvanised steel.

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<sup>41</sup> BlueScope submission dated 11 September 2015.

Excluding cases where goods produced by Yieh Phui met the requirements of the abovementioned TCOs, or where production was of painted galvanised steel, pre-painted galvanised steel, electro-galvanised plate steel or corrugated galvanised steel, the Commission is satisfied that the galvanised steel produced by Yieh Phui would have been subject to the original dumping duty notice.

The Commission notes that:

- the TCOs that have been the subject of the granting of exemptions from anti-dumping measures relate to very specific galvanised steel that is often used in automotive applications;
- examination of the importation database (**Confidential Attachment 1**) indicates that exports of both alloyed and non-alloyed galvanised steel have not accessed tariff concessions under the TCOs applicable to galvanised steel; and
- previous data gathered by the Commission in Investigation 190a does not identify that Yieh Phui has historically produced or exported painted galvanised steel, pre-painted galvanised steel, electro-galvanised plate steel or corrugated galvanised steel.

The Commission considers that it does not have definitive evidence to establish whether all of Yieh Phui's exports of alloyed galvanised steel during the inquiry period fit into any of the excluded categories of steel or the exempted TCOs. However, the Commission considers it is likely that the vast majority, if not all, of this alloyed galvanised steel did not qualify for such an exemption, and hence would have been subject to the original dumping duty notice had they not been slightly modified.

#### **5.3.2.5 Do section 8 or 10 of the Dumping Duty Act apply to the export of the circumvention goods? (48(2)(e))**

Sections 8 and 10 of the Dumping Duty Act refer to the imposition of dumping duties and countervailing duties respectively, by virtue of a notice under subsections 269TG(2) or 269TJ(2) of the Act. In this case, the Commission notes that a countervailing duty notice is not applicable to galvanised steel exported from Taiwan. Consequently, section 10 of the Dumping Duty Act is not applicable.

As discussed above, dumping duties (imposed by the original dumping duty notice) apply to:

*“flat rolled products of **iron and non-alloy steel** of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc.”* [emphasis added]

The slight modification of the goods that has been performed by Yieh Phui results in the circumvention goods exported by Yieh Phui being considered 'alloyed galvanised steel' for the purposes of classification under subheadings 7225.92.00 (statistical code 38) and 7226.99.00 (statistical code 71) of the Tariff Act. This modification means that the exported goods are no longer 'of iron or non-alloy steel' and hence not subject to the description of the goods covered by the dumping duty notice.

The Commission is satisfied that the alleged circumvention goods are not subject to the dumping duty notice and hence section 8 of the Dumping Duty Act does not apply to the export of the circumvention goods to Australia.

### **5.3.3 Other matters raised in submissions**

Yieh Phui and Wright Steel have provided confidential evidence to the Commission relevant to a request for - and subsequent sale of - boron-alloyed galvanised steel from Yieh Phui to a purchaser in a third country (that is, a country other than Australia and Taiwan). A specific request was made for the addition of a minute amount of boron by the purchaser which was for the purpose of reducing the yield strength of the galvanised steel. Yieh Phui and Wright Steel argue that this evidence should be considered by the Commission as demonstrating the legitimate use of boron-alloyed galvanised steel and in assessing the claims of the Australian industry.

Further, Wright Steel submits that the Commission did not independently assess or ascertain the actual end use of the goods, instead relying on information provided by BlueScope and by reference to import statistics.

#### **Commission's assessment**

The Commission notes that the party to whom the confidential evidence refers and the associated allegations made against it is unable to defend its interests in this inquiry. Accordingly, the Commission does not consider that it can have regard to this evidence. Notwithstanding this view, the Commission notes that these anti-circumvention inquiries relate to the circumvention of anti-dumping measures as they relate to exports to Australia, and accordingly the transaction referred to is beyond the scope of these inquiries.

In terms of assessing end use, the Commission has relied on all of the information available to it supplied by Yieh Phui, other suppliers/exporters, importers and BlueScope, as well as knowledge obtained from previous investigations. The Commission notes that Yieh Phui's response to the exporter questionnaire submitted that the majority of both non-alloyed and alloyed galvanised steel that Yieh Phui exported to Australia was used to make purlin for building construction. It was further submitted that there is no difference in purposes or end uses between the non-alloyed and alloyed galvanised steel exported to Australia during the inquiry period. The Commission also notes that this is a slightly different view of the market to the one held by its main customers, Wright Steel and CITIC.

Although end use is a relevant factor to consider, the Commission does not consider that any one factor alone will determine whether the circumvention goods have been slightly modified. End use is disputed by the interested parties, and the Commission notes that it has obtained no definitive evidence from any party that would demonstrate which is the better view. The Commission considers that a consideration of all of the factors considered to be relevant is the most appropriate approach.

### 5.3.4 Conclusion

The Commission finds that, in relation to alloyed galvanised steel exported to Australia by Yieh Phui, a circumvention activity has occurred pursuant to subsection 48(2) of the Regulation, namely that there has been a slight modification of goods exported to Australia.

## 5.4 Angang Steel Co Ltd / Angang Group Hong Kong Co Ltd

### 5.4.1 Overview

Angang Group Hong Kong Co Ltd (Angang HK) was contacted by the Commission to complete an exporter questionnaire. The company did not provide a response to the exporter questionnaire, or provide any correspondence or declaration that they had not been involved in a circumvention activity. In the absence of relevant information from the supplier, the Commission has relied on all available information to make determinations in relation to goods supplied by Angang HK during the inquiry periods, including:

- import data gathered from DIBP;
- information on file gathered from and verified with Angang HK and its affiliates during Investigation 190a and 193a; and
- confidential information considered reliable for the purposes of drawing conclusions in relation to goods supplied by Angang HK to Australia.

### 5.4.2 Assessment against subsection 48(2) of the Regulation

#### 5.4.2.1 Have the circumvention goods been exported to Australia from a foreign country in respect of which the notice applies? (48(2)(a))

Examination of the data in **Confidential Attachment 1** shows that goods supplied by Angang HK to Australia during the investigation period were declared as being alloyed galvanised steel, and declared as having originated in China. Additionally, confidential information received from another interested party supports the accuracy of the above data and establishes that this alloyed galvanised steel includes boron of a concentration greater than 0.0008% (see **Confidential Attachment 3**). The Commission is satisfied circumvention goods are exported to Australia from China.

*Who is the exporter?*

During the original investigations (Investigations 190a and 193a), the Commission received response to the exporter questionnaires from Angang Steel Co., Ltd (ANSTEEL) and affiliates (one in relation to Investigation 190a and another in relation to Investigation 193a). In these previous exporter questionnaire responses, the companies identified that, during the periods of Investigations 190a and 193a:

- ANSTEEL was an exporting producer of galvanised steel merchandise to Australia;
- Angang Group International Trade Corporation (Angang International), is an affiliated company to ANSTEEL, acting as an agent in the sale of galvanised steel to foreign markets including Australia;
- Angang International sells to Australia via Angang HK, which issues commercial invoices to the Australian customers; and
- Angang HK is affiliated with ANSTEEL and Angang International.

During Investigations 190a and 193a, the Commission undertook a verification visit to ANSTEEL to verify information provided in the company's exporter questionnaire responses. The relevant verification visit report on Investigation 190a's public record.

Following this verification visit, the Commission was satisfied that, for the purposes of Investigations 190a and 193a:

- ANSTEEL, Angang HK and Angang International should be treated as one entity for the determination of export price; and
- ANSTEEL was the exporter of galvanised steel supplied via Angang HK and Angang International during the investigation period.

Noting the affiliations, the nature of each business (ANSTEEL has manufacturing facilities in China while Angang HK is a Hong Kong based trading company) and the historical findings of Investigations 190a and 193a, the Commission considers that ANSTEEL was likely the exporter of alloyed galvanised steel supplied by Angang HK to Australia during the inquiry period.

**5.4.2.2 Before that exportation, were the circumvention goods slightly modified? (48(2)(b))**

In respect of exporters for which no exporter questionnaire response has been received, the Commission has relied on all available information, such as that provided by BlueScope, information provided by other interested parties and information obtained from previous investigations. Where available, any additional information has been referred to; otherwise, the assessment of the relevant factors regarding goods exported by ANSTEEL or supplied by Angang HK is the same as that relied on for Yieh Phui.

Patterns of trade and export volumes

**Confidential Attachment 1** indicates that ANSTEEL exported:

- non-alloyed galvanised steel up to the second quarter of calendar year 2013 before ceasing exports of those goods; and
- alloyed galvanised steel from the first quarter of calendar year 2015.

The import data indicates that:

- ANSTEEL exported alloyed galvanised steel to one importer in the inquiry period;
- ANSTEEL made exportations of non-alloyed galvanised steel to that importer prior to ceasing exports of non-alloyed galvanised steel in 2013; and
- the volume of exports to that importer prior to ceasing exportation of non-alloyed galvanised steel in 2013 were similar to the volume of exports of alloyed galvanised steel to that importer commencing in 2015.

Confidential information gathered by the Commission confirms these patterns of exports from ANSTEEL. See **Confidential Attachment 3**.

The Commission has compared the alleged circumvention goods to the goods subject to the original notice and found patterns of trade that suggest alloyed galvanised steel and non-alloyed galvanised steel are likely to be substantially interchangeable, have the same end use and each fulfil similar customer preferences and expectations.

#### Manufacturing costs and selling price

The Commission's understanding of ANSTEEL's manufacturing process for galvanised steel from Investigations 190a and 193a<sup>42</sup> is that ANSTEEL's galvanising process is substantially similar to the galvanising process undertaken by Yieh Phui (noting the Commission understands that this process is similar globally for all galvanised steel manufacturers).

#### Marketing and trade channels/distribution

Other available confidential information confirms that the sales process of ANSTEEL's alloyed galvanised steel and non-alloyed galvanised steel is the same or similar.

#### Interchangeability, end use and customer preferences and expectations

Confidential Information obtained by the Commission implies that end users of alloyed galvanised steel do not specifically request that the products sold to them contain alloy, which supports the Commission's finding that the channels of marketing and trade are the same. Refer to **Confidential Attachment 3** for further discussion.

#### Summary of findings and conclusion

The Commission considers that the balance of evidence supports a finding that alloyed galvanised steel exported by ANSTEEL during the inquiry period has been slightly modified through a minor change to the manufacturing process.

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<sup>42</sup> See ANSTEEL's exporter verification report for Investigations 190a and 193b

**5.4.2.3 Is the use or purpose of the circumvention goods the same before and after the slight modification? (48(2)(c))**

For a detailed discussion of use or purposes of non-alloy and alloyed galvanised steel exported by ANSTEEL to Australia, refer to the discussion of subsection 48(2)(b) of the Regulation above. Following analysis of all available information, the Commission is satisfied that the use or purpose of the circumvention goods are the same before and after the slight modification of those goods.

**5.4.2.4 Had the circumvention goods not been slightly modified, would they have been subject to the original notice? (48(2)(d))**

The Commission considers it is likely that much of this alloyed galvanised steel would have been subject to the original dumping duty notice had they not been slightly modified.

**5.4.2.5 Do section 8 or 10 of the Dumping Duty Act apply to the export of the circumvention goods? (48(2)(e))**

In this case, the Commission notes that a countervailing duty notice is not applicable to galvanised steel exported by ANSTEEL from China. Consequently, section 10 of the Dumping Duty Act is not applicable. The Commission is satisfied that the alleged circumvention goods are not subject to the dumping duty notice and hence section 8 of the Dumping Duty Act does not apply to the export of the circumvention goods to Australia.

**5.4.3 Conclusion**

The Commission finds that, in relation to alloyed galvanised steel exported to Australia by ANSTEEL, a circumvention activity has occurred pursuant to subsection 48(2) of the Regulation, namely that there has been a slight modification of goods exported to Australia.

**5.5 Benxi Iron and Steel (Group) International Economic & Trading Co**

**5.5.1 Overview**

Benxi Iron and Steel (Group) International Economic & Trading Co. (Benxi International) was contacted by the Commission to complete an exporter questionnaire. The company did not provide a response to the exporter questionnaire, or provide any correspondence or declaration that they had not been involved in a circumvention activity.

No information was provided by any other interested party in relation to the goods supplied by Benxi International. The Commission's primary source of reliable information relating to galvanised steel goods supplied by Benxi International is data contained in the DIBP import records.

## 5.5.2 Assessment against subsection 48(2) of the Regulation

### 5.5.2.1 Have the circumvention goods been exported to Australia from a foreign country in respect of which the notice applies? (48(2)(a))

Examination of **Confidential Attachment 1** shows that goods supplied by Benxi International to Australia during the inquiry period were declared as being alloyed galvanised steel), and declared as having originated in China. This galvanised steel was described by the importer as 'alloy galv steel in coil' in its customs declaration. In light of the above, the Commission is satisfied that the circumvention goods are exported to Australia from China.

*Who is the exporter?*

An internet search for Benxi International suggests that the company may be a trading company of steel and steel products, which is also indicated by the company's name. It is therefore unlikely that this company is the manufacturer of the supplied alloyed galvanised steel. The Commission's established policy detailed in the *Dumping and Subsidy Manual* is broad and therefore, Benxi can be considered to be the exporter.

### 5.5.2.2 Before that exportation, were the circumvention goods slightly modified? (48(2)(b))

In respect of exporters for which no exporter questionnaire response has been received, the Commission has relied on all available information, such as that provided by BlueScope, information provided by other interested parties and information obtained from previous investigations. Where available, any additional information has been referred to; otherwise, the assessment of the relevant factors regarding goods exported by Benxi International is the same as that relied on for Yieh Phui.

#### Patterns of trade and export volumes

Information contained in DIBP's import records shows that Benxi International:

- supplied non-alloyed galvanised steel to Australia in small quantities during the second and third quarters of calendar year 2013 and did not supply non-alloyed galvanised steel to Australia for the rest of the inquiry period;
- Investigation 190a was initiated in September 2012, at approximately the time that Benxi International ceased supplying non-alloyed galvanised steel to Australia; and
- importers of alloyed and non-alloyed galvanised steel from Benxi International are different (i.e. the importer of alloyed steel from Benxi International did not purchase non-alloyed steel from that company during the inquiry period).

The Commission notes:

- Investigation 190a was initiated in September 2012, at approximately the time that Benxi International ceased supplying non-alloyed galvanised steel to Australia; and
- the company commenced supplying alloyed galvanised steel to Australia after the publication of the original notices on 5 August 2013.

The Commission has compared the alleged circumvention goods to the goods subject to the original notice and found patterns of trade that suggest alloyed galvanised steel and non-alloyed galvanised steel are likely to be substantially interchangeable, have the same end use and each fulfil similar customer preferences and expectations.

#### Summary of findings and conclusion

On the basis of available information, the Commission considers that the balance of evidence supports a finding that alloyed galvanised steel exported by Benxi International during the inquiry period has been slightly modified through a minor change to the manufacturing process.

#### **5.5.2.3 Is the use or purpose of the circumvention goods the same before and after the slight modification? (48(2)(c))**

For a detailed discussion of use or purposes of non-alloyed and alloyed galvanised steel supplied by Benxi International to Australia, refer to the discussion of subsection 48(2)(b) of the Regulation above. Following analysis of all available information, the Commission is satisfied that the use or purpose of the circumvention goods are the same before and after the slight modification of those goods.

#### **5.5.2.4 Had the circumvention goods not been slightly modified, would they have been subject to the original notice? (48(2)(d))**

The Commission considers it is likely that much of this alloyed galvanised steel would have been subject to the original dumping duty notice had they not been slightly modified.

#### **5.5.2.5 Do sections 8 or 10 of the Dumping Duty Act apply to the export of the circumvention goods? (48(2)(e))**

Sections 8 and 10 of the Dumping Duty Act refer to the imposition of dumping duties and countervailing duties respectively, by virtue of a notice under subsections 269TG(2) or 269TJ(2). The Commission is satisfied that the alleged circumvention goods are not subject to the original subsections 269TG(2) or 269TJ(2) notices and hence sections 8 and 10 of the Dumping Duty Act do not apply to the export of the circumvention goods to Australia.

### **5.5.3 Conclusion**

The Commission finds that, in relation to alloyed galvanised steel exported to Australia by Benxi International, a circumvention activity has occurred pursuant to subsection 48(2) of the Regulation, namely that there has been a slight modification of goods exported to Australia.

## 5.6 Bao Australia Pty Ltd / Precision Components Australia Pty Ltd

### 5.6.1 Overview

Bao Australia Pty Ltd (Bao Australia) was contacted by the Commission to complete an exporter questionnaire. The company did not provide a response to the exporter questionnaire, or provide any correspondence or declaration that they had not been involved in a circumvention activity.

Precision Components Australia Pty Ltd (Precision Components) was identified by the Commission as a possible importer of the circumvention goods from Bao Australia and requested to complete an importer questionnaire. Precision Components completed this questionnaire, a non-confidential version of which is on the Public Record.

### 5.6.2 Assessment against subsection 48(2) of the Regulation

#### **5.6.2.1 Have the goods been exported to Australia from a foreign country in respect of which the notice applies? (48(2)(a))**

Examination of Confidential Attachment 1 shows that goods supplied by Bao Australia to Australia during the inquiry period were declared as being alloyed galvanised steel, and declared as having originated in China.

In its response to the importer questionnaire, Precision Components identified that it had purchased alloyed galvanised steel from China from 'Baoshan Iron & Steel Co.' (Baoshan Steel). Commercial documents provided by Precision Components in its response to the importer questionnaire indicate that Bao Australia is the direct supplier of the alloyed galvanised steel, but they have been manufactured by Baoshan Steel in China.

In light of the above, the Commission is satisfied that the circumvention goods are exported to Australia from China.

*Who is the exporter?*

Noting the findings below that Bao Australia has not engaged in a circumvention activity, the Commissioner considers that it is not necessary to conclusively determine who the exporter of these goods is for the purposes of this inquiry.

#### **5.6.2.2 Before that exportation, were the circumvention goods slightly modified? (48(2)(b))**

In respect of exporters for which no exporter questionnaire response has been received, the Commission has relied on all available information, such as that provided by BlueScope, information provided by other interested parties and information obtained from previous investigations. Where available, any additional information has been referred to; otherwise, the assessment of the relevant factors regarding goods exported by Bao Australia is the same as that relied on for Yieh Phui.

Patterns of trade and export volumes

**Confidential Attachment 1** indicates that Bao Australia supplied:

- non-alloyed galvanised steel throughout the entire inquiry period to three importers, including Precision Components – including after the imposition of anti-dumping measures;
- alloyed galvanised steel from the middle of the 2014 calendar year only to Precision Components – commencing after the imposition of anti-dumping measures; and
- volumes of non-alloyed galvanised steel supplied by Bao Australia were steady throughout the inquiry period (no discernible ‘switch’ to alloyed galvanised steel).

Precision Components imported non-alloyed galvanised steel from numerous suppliers during the inquiry period, but only imported alloyed galvanised steel from Bao Australia during the inquiry period (commencing after the imposition of anti-dumping measures).

Physical differences

Precision Component’s response to the Importer Questionnaire include a confidential detailed import listing of alloyed and non-alloyed galvanised steel imported from Bao Australia during the inquiry period. This listing was checked against commercial documentation provided by the company and the Commission is satisfied that it is accurate.

The imports listing identified the alloys and alloy levels of the imported goods. In some cases, this listing identified that multiple alloys were present in the imported goods, and in other cases only a single alloy was present. However, for all imports of alloyed galvanised steel from Bao Australia during the inquiry period, the level of alloys present were well above the minimum levels of alloy required for the products to be classified as an ‘alloy steel’ as per the requirements of the notes to Chapter 72 of Schedule 3 of the Tariff Act. This import listing forms **Confidential Attachment 4**.

As Bao Australia has not responded to the exporter questionnaire, the Commission does not have access to company specific information regarding the manufacturing process of alloyed and non-alloyed galvanised steel supplied by that company (and manufactured by its affiliate Baoshan Steel). The Commissioner is however satisfied that this process would be substantially the same as the processes described above. Indeed the Commission is not aware of any substantial differences between the manufacture of alloyed galvanised steel and non- alloyed galvanised steel.

The Commission has compared the alleged circumvention goods to the good subject to the original notice and considers that the physical characteristics of the goods have been slightly modified by the addition of alloys.

Manufacturing cost and selling price

The Commission has not been provided with evidence from the supplier of the cost of inclusion of the level of alloys in goods supplied by Bao Australia, noting that these alloys are at higher concentrations and include other alloys to the calculation provided by BlueScope in estimating the cost of adding 0.0008% boron to liquid steel.

The Commission's own research of the cost of the declared alloying elements and calculations using BlueScope's provided formula and the verified cost to make and sell of galvanised steel incurred by BlueScope during financial year 2014 (provided to Investigation 190a and 193a) indicates that the impact of the total cost to make and sell for an integrated manufacturer of galvanised steel of adding alloys at the maximum levels reported by Precision Components would account for a negligible percentage of that total cost to make and sell (see **Confidential Attachment 5** for calculations).

However, the Commission does not have an understanding of whether other modifications to the manufacturing process of alloyed steel containing the alloying elements at concentrations reported for the goods supplied by Bao Australia. It is considered possible that further changes to the manufacturing process may be required and extra cost incurred. However, as the supplier has not responded to the exporter questionnaire, this information has not been provided.

The Commission has compared the available information regarding the alleged circumvention goods to the goods subject to the original notice and have found that the addition of alloys to galvanised steel to make alloyed galvanised steel would be likely to have a small to negligible impact on Bao's cost to produce those goods when compared to the goods subject to the original notice.

Marketing and trade channels/distribution

In its importer questionnaire response, Precision Components confirm that the order process of Bao Australia's alloyed galvanised steel and non-alloyed galvanised steel is the same or similar. Precision Component's response to the importer questionnaire identified that there are no differences in the ordering and purchase process between alloyed and non-alloyed galvanised steel supplied by Bao Steel.

Precision Components also identified that there was no purchase price difference between alloyed and non-alloyed galvanised steel purchased from Bao Australia (where all other elements of the purchase are equal). This is not consistent with the general trend shown in information gathered from interested parties. Precision Components submitted that the imported galvanised steel is used by that company to make automotive components and therefore is not on-sold in its original state (hence pricing information from Precision Components to its customers is not relevant in determining price differences between alloyed and non-alloyed goods).

The Commission has compared the information available regarding the alleged circumvention goods to the goods subject to the original notice and have found there is no difference between the ordering and sales transactions of alloyed galvanised steel compared to non-alloyed galvanised steel.

Interchangeability, end use, customer preferences and expectations

In its application and meeting with the Commission dated 27 May 2015, BlueScope submitted that certain specialised alloyed galvanised steel may be required for use in manufacturing automotive parts. BlueScope has indicated that non-alloyed galvanised steel is not suitable for this specific use. BlueScope also indicated that this specialised automotive alloyed galvanised steel would include alloys other than boron and at levels higher than 0.0008% in the case of boron, or the other ‘thresholds’ required by the notes to Chapter 72 of Schedule 3 to the Tariff Act. BlueScope indicated that this steel may also be ‘quenched and tempered’.

Precision Components has submitted that the end-use of their imports from Bao Australia is the manufacture of specific automotive parts, the material specifications of which are determined by Precision Component’s customer (i.e. the customer demands components made from alloyed steel).

The Commission has compared the information available regarding the alleged circumvention goods to the goods subject to the original notice and have circumstances where there are differences between the end uses or interchangeability of alloyed galvanised steel compared to its non-alloyed galvanised steel.

Summary of findings and conclusion

The Commission considers that the balance of evidence supports a finding that alloyed galvanised steel exported by Bao Australia during the inquiry period has been slightly modified.

**5.6.2.3 Is the use or purpose of the circumvention goods the same before and after the slight modification? (48(2)(c))**

As discussed above, the Commission is satisfied that the end use of alloyed galvanised steel supplied by Bao Australia is not the same before its slight modification (adding of alloys). Subsection 48(2)(c) of the Regulation is therefore not satisfied.

Subsection 48(2) of the Regulation provides that all of the factors listed in that provision have to apply for the circumstance of slight modification of goods to be established. A failure to satisfy subsection 48(2)(c) of the Regulation means that circumstances cannot be established. Accordingly, there is no need to consider the remaining factors in subsection 48(2) of the Regulation.

**5.6.3 Conclusion**

The Commissioner determines that, in relation to alloyed galvanised steel supplied to Australia by Bao Australia, a circumvention activity has not occurred pursuant to subsection 48(2) of the Regulation.

## **5.7 POSCO Australia Pty Ltd**

### **5.7.1 Overview**

As outlined above, POSCO was contacted by the Commission to complete an exporter questionnaire. After receiving the exporter questionnaire, POSCO contacted the Commission to declare that the company had not exported slightly modified goods. Consequently, POSCO declined to submit a response to the exporter questionnaire.

The Commission has been provided with confidential information from other interested parties to the inquiries in relation to goods supplied by POSCO. This information is confidential or would adversely affect business or commercial interests, if released. Nonetheless, this information has been taken into consideration in making determinations in relation to goods supplied by POSCO for the purposes of this final report. The confidential information is discussed further in **Confidential Attachment 6**.

### **5.7.2 Conclusion**

The Commission determines that, in relation to alloyed galvanised steel supplied to Australia by POSCO, a circumvention activity has not occurred pursuant to subsection 48(2) of the Regulation.

## **5.8 Kenna International Corporation**

Kenna International Corporation (Kenna) was contacted by the Commission to complete an exporter questionnaire after being identified as a potential supplier of alloyed galvanised steel exported from Taiwan and Korea. The company was also identified as a potential importer of alloyed galvanised steel and hence was sent an importer questionnaire for completion as well.

Following receipt of these questionnaires, Kenna contacted the Commission and advised that it was an importer of alloyed galvanised steel but not an exporter of those goods, but it may appear as a 'supplier' in the DIBP database on occasions where it has imported goods on behalf of an Australian customer. From this information and further confidential information obtained in the course of the inquiries, the Commission is satisfied that Kenna was not an exporter of galvanised steel exported from Taiwan and Korea during the inquiry period.

The Commission is satisfied on the basis of this confidential information that Kenna did not export the circumvention goods.

## **5.9 Union Steel Co Ltd / Dongkuk Steel Mill Co Ltd**

Union Steel Co Ltd (Union Steel) was contacted by the Commission to complete an exporter questionnaire, after identifying that Union Steel was a potential supplier of circumvention goods during the inquiry period. After receiving this request, correspondence was received from Dongkuk Steel Mill Co., Ltd (Dongkuk), identifying that it had taken over Union Steel on 1 January 2015, and identifying that non-alloy galvanised steel exported to Australia by Dongkuk is exempted from the original notices.

The Commission is satisfied that Union Steel did not export the circumvention goods for the purposes of these inquiries.

### **5.10 Dongbu Steel Co Ltd**

Dongbu submitted a response to the Exporter Questionnaire for the inquiries. This response declared that Dongbu had not been involved in the export of circumvention goods to Australia during the inquiry period. The Commission notes that it did not identify Dongbu as a potential exporter of circumvention goods through its analysis of DIBP data, nor did it request the company complete and exporter questionnaire response.

The Commission is satisfied that, in relation to galvanised steel exported by Dongbu during the inquiry period, a circumvention activity has not occurred.

### **5.11 Summary of findings and conclusion**

The Commissioner has found that a circumvention activity, specifically the slight modification of goods exported to Australia, have occurred with respect to the following activities:

<b>Exporter</b>	<b>Country of export</b>
Yieh Phui Enterprise Co., Ltd	Taiwan
Angang Steel Co., Ltd	China
Benxi Iron and Steel (Group) International Economic & Trading Co.	China

**Table 7 – Entities that engaged in circumvention activities**

## 6 RECOMMENDED CHANGES TO NOTICES

### 6.1 Recommendation

The Commissioner recommends that the original notices be amended to include alloyed goods exported to Australia by certain named exporters.

### 6.2 Legislative framework

After conducting an anti-circumvention inquiry, section 269ZDBG specifies that the Commissioner must give the Parliamentary Secretary a report which recommends either:

- that the original notice remain unaltered;<sup>43</sup> or
- that the original notice be altered because a circumvention activity has occurred, and what alterations ought to be made to that original notice.<sup>44</sup>

Subsection 269ZDBH(1)(b) requires that, when making a declaration that an original notice is to be altered, the Parliamentary Secretary's declaration must specify the date from which those changes take effect.

Subsection 269ZDBH(8) provides that, when specifying a date in a declaration under (1)(b), the Parliamentary Secretary is not able to specify a date earlier than the date of publication of the public notice of initiation of an anti-circumvention inquiry.

### 6.3 Proposed recommendation at time of SEF

At the time of the SEF, the Commission's position was that the original dumping duty notice ought to be altered such that boron-alloyed galvanised steel exported from China by ANSTEEL or from Taiwan by Yieh Phui, and all alloyed galvanised steel exported from China by Benxi International be subject to the measures.

The Commission also proposed that the original countervailing duty notice ought to be altered such that all alloyed galvanised steel being exported from China by Benxi International be subject to the measures.

Further, the Commission proposed to recommend that the original notices be altered so as to have effect from the date of initiation of these inquiries, being:

- 5 May 2015 for galvanised steel exported from Korea and Taiwan (Inquiry 290); and
- 1 June 2015 for galvanised steel exported from China (Inquiry 298).

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<sup>43</sup> Subsection 269ZDBG(1)(c).

<sup>44</sup> Subsection 269ZDBG(1)(d).

## 6.4 Submissions in response to SEF

BlueScope objected to the Commission's proposed recommendations, arguing that to focus the alterations on the presence of boron would simply encourage the identified exporters to use other alloys to further circumvent the measures set out in the relevant notice. BlueScope further considers that other, un-named exporters will not be deterred from incorporating alloys into the goods (and avoiding the measures). BlueScope does not consider that this approach is consistent with the intention of the anti-circumvention provisions. However, BlueScope is supportive of the Commission's proposed recommendation to alter the notices so that they have effect from the respective dates of initiation.<sup>45</sup>

Yieh Phui argues that the Commission failed to sufficiently explain why the notice should apply to alloyed galvanised steel with an unspecified boron content, given the legitimate use of boron in the minimisation of the strain-ageing effect. Yieh Phui suggests that the Commission's proposed alterations are arbitrary, and do not take into account the market's legitimate demand for boron alloyed galvanised steel which has been caused by a downturn in steel sales and therefore results in longer stockholding times. Yieh Phui objected to the proposed retrospective application of the measures, arguing that to do so would inflict a disproportionately excessive punishment on affected exporters / importers rather than to provide a remedy which removes the injury caused by dumping.<sup>46</sup>

Wright Steel made similar points to Yieh Phui concerning the proposed retrospective application of the measures, but additionally argued in some detail regarding the suitability (or otherwise) of specifying a particular limit of boron that ought to be present in the alloyed galvanised steel in order to be subject to the measures. Wright Steel argues that to do so is essential to give a clear indication to the market as to what behaviour is considered to be a circumventing activity, and to do otherwise would be an unreasonable restriction on trade in legitimate alloyed goods. Wright Steel indicates that the Commission has failed to properly consider the end use of boron-alloyed galvanised steels, and therefore is unable to establish what proportion of boron must be present such that the goods are no longer "slightly modified".<sup>47</sup>

## 6.5 Commission's analysis

At the time of the SEF the Commission's position was construed narrowly, focusing only on addressing the specific instances of circumvention activity which had demonstrably occurred. The available evidence demonstrated the use of boron-alloyed galvanised steel for this purpose, but the Commission considered that other alloys may also be used and therefore proposed a broader alteration to the notice concerning the uncooperative exporters whose export behaviour demonstrated a circumvention activity had occurred.

As noted in Chapter 4, the Commission accepts that boron-alloyed galvanised steel is used for reasons other than avoiding the anti-dumping measures imposed on the goods.

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<sup>45</sup> Record of meeting between the Commission and BlueScope on 24 November 2015

<sup>46</sup> Submission received from Yieh Phui dated 25 November 2015

<sup>47</sup> Submission received from Wright Steel dated 25 November 2015

This is demonstrated by the DIBP import database, which shows that some trade in alloyed galvanised steel existed prior to the imposition of the measures, and continued unaffected following the imposition of measures. However, the Commission also noted the submissions of BlueScope which argued that the presence of boron in alloyed steel may have no effect in certain concentrations or in the absence of certain treatment in the production process. Accordingly, the Commission sought to test these assertions and to establish whether a particular proportion of boron, a particular end use or some other particular description of the steel (such as production treatments like quench and tempering) might be able to be specified in the original notices such that any “legitimate” trade might be unaffected.

### **6.5.1 Metallurgical advice**

The Commission subsequently engaged Emeritus Professor Druce Dunne of the University of Wollongong to provide an independent explanation of the practical impact of the presence of boron in steel products.<sup>48</sup> The advice sought from Professor Dunne was to address the following questions:

- What effect does the addition of boron have on HSS and galvanised (flat rolled) steel?
- At what point, or in what proportion, does the addition of boron have a measurable impact on the performance characteristics of HSS and galvanised steel? What are these effects?
- To what extent do these effects differ according to the processes used to manufacture the product (such as quench and tempering)?
- Are there any end-use applications of HSS and galvanised steel that contain boron above 0.0008% concentration where the end use is different before and after the addition of boron (i.e. where non-boron goods would not be suitable)?
- What are these applications, and what are the physical characteristics of the steel necessary to meet the requirements of these applications? For example, can these be determined by the level of boron, the particular production process required (such as quenched and tempered), or by reference to some other characteristic not present in the non-alloyed steel (such as an improved tensile strength)?
- Are there any other factors which the Commission ought to consider to achieve its objective of not disrupting legitimate trade in alloyed HSS or alloyed galvanised steel?

Professor Dunne’s report can be found on the public record.<sup>49</sup>

The Commission considers that Professor Dunne’s report demonstrates that it is impractical to alter the original notices to refer to boron in a defined proportion, galvanised steel intended for certain defined end uses or otherwise manufactured using defined processes in order to prevent further circumvention activity taking place. In particular, the Commission notes that an importer of alloyed galvanised steel would have access to limited information regarding these parameters and would be unable to readily assess whether the imported goods are subject to measures defined in these terms.

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<sup>48</sup> For use in Inquiries 290 and 298, and Inquiry 291.

<sup>49</sup> Item 036 on the public record refers.

### 6.5.2 Impact of metallurgical advice on Commission's recommendations

Given the complex chemistry demonstrated by Professor Dunne's report concerning the effect of boron in steels, the Commission considers that it is reasonable to conclude that other alloying elements (such as chromium, molybdenum and so on) would also have varying practical effects on steel products, and that these products may have a specific engineering purpose in certain circumstances.

The Commission has obtained evidence from the cooperating exporters that boron-alloyed galvanised steel has been imported into Australia, and has concluded (as outlined in Chapter 5) that the boron was added for the purpose of slightly modifying the goods in order to avoid the anti-dumping measures set out in the original notices. The Commission notes that no evidence has been obtained which establishes what alloying elements have been added to the raw material used to manufacture alloyed galvanised steel by the uncooperative exporters, but has concluded that the weight of all the remaining available evidence supports a conclusion that these elements were added for the purpose of slightly modifying the goods in order to avoid the anti-dumping measures set out in the original notices.

The Commission considers that some aspects of the argument made by BlueScope in its submission in response to the SEF<sup>50</sup> are persuasive: it would be an unusual outcome if certain exporters that have previously engaged in a particular circumvention activity based on the addition of boron could simply employ a different alloy to continue avoiding the measures. The Commission notes that the data it has relied on to demonstrate the clear shift in export behaviour (moving from goods subject to measures to alloyed products) indicates that circumvention activity is a commercially attractive response for some market participants. The Commission notes the significant discrepancy between the interim dumping duty payable by importers on the goods subject to measures, and the comparatively inexpensive additional cost of boron or other alloying elements that currently enables an importer to avoid those measures.

The Commission does not consider that BlueScope's proposal that the original notices should be extended to alloyed galvanised steel exported by all exporters is reasonable, for similar reasons. The exporters that have been identified as having engaged in circumvention activity have substantially changed their export activity in order to avoid the measures, which is behaviour that the anti-circumvention framework in the Act has been established to address. For all other exporters examined by the Commission, there is little – if any – discernible change in their behaviour which would suggest that a circumvention activity has occurred.

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<sup>50</sup> Item 029 on the public record refers.

The Commission notes the concern raised that to alter the original notices to specifically include boron-alloyed goods may impose a restriction on an importer's ability to conduct legitimate trade.<sup>51</sup> Although the Commission acknowledges that this may occur, the Commission considers that the need to alter the notice has only arisen because of the circumvention activity that has been found, and that there is no other practical means of preventing further circumvention activity occurring that would not have this effect.

## 6.6 Date of effect

The Commission was alerted to some practical impacts of altering the original notices to the extent that they would have effect on alloyed galvanised steel from the date of initiation of the inquiries. Specifically, interested parties noted that, should the measures be imposed retrospectively, the legislated timeframe in which an importer could apply for a duty assessment (being six months after the completion of the relevant importation period) would have passed by the time the Parliamentary Secretary made her decision.<sup>52</sup> As a result, those importers may become liable for an interim dumping duty and / or interim countervailing duty payment for which it would be unable to apply for an assessment of final duty.

The Commission subsequently published a note on the public record which acknowledged this issue.<sup>53</sup> That note indicated the impending expiry of the application period for the relevant importation period that would be affected by any retrospective imposition of measures on the circumvention goods. The application deadline, 4 February 2016, was advised to be inflexible, but the Commission committed to providing importers that applied within that timeframe an opportunity to provide further information in support of their application if the measures were applied retrospectively.

In correspondence received on 3 February 2016 and which has not been placed on the public record, one importer noted that the terms of section 269V require that an importer has paid interim duty on the goods in order to be eligible to apply for an assessment of their duty liability. The importer pointed out that, as it had paid no duty on the circumvention goods, it did not have standing to apply for a duty assessment.

The Commission provided no further advice to interested parties on this matter. However, the Commission notes that importers that paid duty on non-alloyed galvanised steel would have standing to apply for a duty assessment on those goods. The Commission considers that the note clearly indicated the Commission's intention to undertake duty assessments on both the goods and the circumvention goods if requested to do so by an importer, and that its willingness to accept additional information would provide affected parties with an opportunity to pay any interim duty liability arising from the retrospective application of the measures and – if appropriate – seek an assessment of the final duty payable.

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<sup>51</sup> Item 031 on the public record refers.

<sup>52</sup> Division 4 of Part XVB of the *Customs Act 1901* refers.

<sup>53</sup> Item 035 on the public record for Inquiry 290, published 16 December 2015.

## 6.7 Conclusion and recommended alterations to the original notices

In light of the findings outlined in Chapter 5 that circumvention activities have occurred in relation to galvanised steel exported from China and Taiwan, the Commissioner recommends that the original notices relating to galvanised steel be altered to amend the description of the goods subject to the notice, as follows:

### Section 269TG(2) notice:

The goods description in the original dumping duty notice is recommended to be amended to the following:

- *flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc; **and***
- *flat rolled products of alloyed steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc exported from:*
  - **China by Angang Steel Co., Ltd or Benxi Iron and Steel (Group) International Economic & Trading Co.; or**
  - **Taiwan by Yieh Phui Enterprise Co., Ltd.**

The text in **bold** above indicates the Commissioner's recommended alteration.

### Section 269TJ(2) notice:<sup>54</sup>

The goods description in the original countervailing duty notice is recommended to be amended to the following:

- *flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc; **and***
- *flat rolled products of alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc exported from China by **Benxi Iron and Steel (Group) International Economic & Trading Co.***

The text in **bold** above indicates the Commissioner's recommended alteration.

### Commencement

The Commissioner notes that the legislation (outlined at section 7.2) indicates that, if the Parliamentary Secretary declares that a notice is to be altered, that declaration must indicate the date of effect of those alterations. The Commissioner notes that the earliest date available to her is the date of publication of the public notice of initiation of an anti-circumvention inquiry.

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<sup>54</sup> The original countervailing duty notice does not apply to exports of galvanised steel by Angang Steel Co., Ltd (exempted from interim countervailing duties). The recommended amendments therefore do not apply to this company.

## PUBLIC RECORD

The Commissioner considers that the application of the anti-dumping measures from the date of initiation of these inquiries provides the most effective remedy to the Australian industry available under the terms of the legislation.

Accordingly, the Commissioner recommends that the alteration of the original notices referred to above have effect from the date of initiation of the inquiries:

- for galvanised steel exported from Korea and Taiwan (Inquiry 290), to have effect from **5 May 2015**; and
- for galvanised steel exported from China (Inquiry 298), to have effect from **1 June 2015**.

## 7 RECOMMENDATION

### 7.1 Recommendation

#### The Commissioner is satisfied that:

- for the purposes of subsection 269ZDBB(6), a circumvention activity, in relation to a notice under subsection 269TG(2) and/or subsection 269TJ(2), in the circumstances prescribed by section 48 of the Regulation, has occurred;
- the circumvention activity, being a slight modification of the goods exported to Australia from Korea and Taiwan (Inquiry 290), and from China (Inquiry 298), has occurred because:
  - the circumvention goods are exported to Australia from a foreign country (being China) in respect of which notices under subsection 269TG(2) and subsection 269TJ(2) of the Act apply;
  - the circumvention goods are exported to Australia from a foreign country (being Taiwan) in respect of which notices under subsection 269TG(2) of the Act apply;
  - before that export, the circumvention goods were slightly modified by being alloyed with small quantities of alloys, ;
  - the use or purpose of the circumvention goods is the same before, and after, they are so slightly modified;
  - had the circumvention goods not been so slightly modified, they would have been the subject of the notice;
  - neither section 8 nor 10 of the Dumping Duty Act applies to the export of the circumvention goods to Australia.

#### The Commissioner recommends that the Parliamentary Secretary declare:

- under subsection 269ZDBH(1)(b) of the Act that, for the purposes of the Act and the Dumping Duty Act:
  - the notice under subsection 269TG(2) be altered by amending the goods description to:

*flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc; and*

*flat rolled products of alloyed steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc exported from:*

- *China by Angang Steel Co., Ltd or Benxi Iron and Steel (Group) International Economic & Trading Co.; or*

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- **Taiwan by Yieh Phui Enterprise Co., Ltd.**

- the notice under subsection 269TJ(2) be altered by amending the goods description to:

*flat rolled products of iron and non-alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc; **and***

***flat rolled products of alloy steel of a width less than 600mm and equal to or greater than 600mm, plated or coated with zinc exported from China by Benxi Iron and Steel (Group) International Economic & Trading Co.***

- that the alterations specified in the declaration are taken to have been made to the original notices:
  - For galvanised steel exported from Korea and Taiwan (Inquiry 290), with effect on and after 5 May 2015; and
  - For galvanised steel exported from China (Inquiry 298), with effect on and after 1 June 2015.

**APPENDICES AND ATTACHMENTS**

<b>Appendix 1</b>	Original Notices and ADN No. 2013/66
<b>Confidential Attachment 1</b>	Commission's analysis of DIBP import data concerning non-alloyed and alloyed galvanised steel
<b>Confidential Attachment 2</b>	Export Sales Listing – Yieh Phui
<b>Confidential Attachment 3</b>	Angang confidential analysis
<b>Confidential Attachment 4</b>	Import Listing – Precision Components
<b>Confidential Attachment 5</b>	Calculation – Cost of Alloys as Proportion of Cost to Make and Sell (goods imported by Precision Components)
<b>Confidential Attachment 6</b>	POSCO Australia information

APPENDIX 1



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GOVERNMENT NOTICES

**Customs Tariff (Anti-Dumping) Act 1975**

**Certain zinc coated (galvanised) steel**

**exported to Australia from**

**The People's Republic of China**

**Notice pursuant to subsections 10(3B) and 10(3D) of the  
*Customs Tariff (Anti-Dumping) Act 1975***

I, MARK DREYFUS, Attorney-General, having decided to issue a notice pursuant to section 269TJ(2) of the *Customs Act 1901* in respect of certain zinc coated (galvanised) steel described in that notice (the goods), DIRECT pursuant to subsection 10(3B) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), that the interim countervailing duty referred to in paragraph 10(3A) in respect of certain galvanised steel exported from the People's Republic of China to Australia be ascertained as a proportion of the export price of those particular goods.

Pursuant to subsection 10(3D) of the *Customs Tariff (Anti-Dumping) Act 1975*, I have had regard to the desirability of fixing a lesser amount of duty such that the sum of:

- (i) the export price of those particular goods, and
- (ii) that amount of the interim countervailing duty as so fixed, and
- (iii) the amount of interim dumping duty as fixed under section 8

does not exceed the non-injurious price of goods of that kind as ascertained.

This notice applies to the goods entered for home consumption on and after the date of publication of this notice.

Dated this 25<sup>th</sup> day of July, 2013

Mark Dreyfus  
Attorney-General



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GOVERNMENT NOTICES

**Customs Tariff (Anti-Dumping) Act 1975**

**Zinc coated (galvanised) steel**

**exported to Australia from**

**The People's Republic of China, The Republic of Korea, and Taiwan**

**Notice pursuant to subsections 8(5) and 8(5B) of the  
*Customs Tariff (Anti-Dumping) Act 1975***

I, MARK DREYFUS, Attorney-General, having decided to issue a notice pursuant to subsections 269TG(1) and 269TG(2) of the *Customs Act 1901* in respect of zinc coated (galvanised) steel described in that notice (the goods), **DIRECT**, pursuant to subsection 8(5) and 8(5BB) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), that the element of interim dumping duty be determined using the combination of fixed and variable duty method specified in subregulations 5(2) and 5(3) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

Pursuant to subsection 8(5BA) of the Dumping Duty Act, I have had regard to the desirability of fixing a lesser amount of duty such that the sum of:

- (i) the export price of those particular goods, and
- (ii) that amount of the interim dumping duty as so fixed, and
- (iii) the amount of interim countervailing duty as fixed under section 10

does not exceed the non-injurious price of goods of that kind as ascertained.

This notice applies to the goods and like goods entered for home consumption on and after 6 February 2013.

Dated this 25<sup>th</sup> day of July, 2013

MARK DREYFUS  
Attorney-General



Australian Government  
Anti-Dumping Commission

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**ANTI-DUMPING NOTICE NO. 2013/66**

**Zinc coated (Galvanised) steel and Aluminum zinc coated steel  
Exported from the People's Republic of China, the Republic of  
Korea and Taiwan**

**Findings in relation to dumping and subsidisation  
investigations**

***Customs Act 1901 – Part XVB***

The Anti-Dumping Commission (the Commission) has completed its investigations into:

- (i) the alleged dumping of zinc coated (galvanised) steel and aluminium zinc coated steel ("the goods"), exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea) and Taiwan, the investigation of which commenced on 5 September 2012; and
- (ii) the alleged subsidisation of galvanised steel and aluminium zinc coated steel exported to Australia from China, the investigation of which commenced on 26 November 2012.

Galvanised steel is currently classified to tariff subheadings 7210.49.00 (statistical codes 55, 56, 57 and 58) and 7212.30.00 (statistical code 61) in Schedule 3 of the *Customs Tariff Act 1995*. Aluminium zinc coated steel is currently classified to tariff subheading 7210.61.00 (statistical codes 60, 61 and 62).

A full description of the goods is available in Australian Customs Dumping Notice (ACDN) No. 2012/40 (relating to the initiation) and ACDN No. 2012/62 (relating to the clarification of the goods). These ACDNs are available at the Commission's website [www.adcommission.gov.au](http://www.adcommission.gov.au).

The Commission reported its findings and recommendations to the Attorney-General in International Trade Remedies Report Nos. 190 and 193 (REP 190 and REP 193), which outlines the investigations carried out by the Commission and recommends the publication of a dumping duty notice and a countervailing duty notice in respect of the goods. The Attorney-General has considered REP 190 and REP 193 and has accepted the Commission's recommendations and reasons for the recommendations, including all material findings of fact or law on which the Commission's recommendations were based, and particulars of the evidence relied on to support the findings.

Notice of the Attorney-General's decision was published in *The Australian* newspaper and Final Report 290 and 298 – Anti-Circumvention Inquiries – Galvanised Steel from Korea, Taiwan and China the *Commonwealth of Australia Gazette* on 5 August 2013.

### **Terminations**

On 26 April 2013, the Commission terminated its dumping investigation into:

- galvanised steel and aluminium zinc coated steel exported from Korea by Union Steel Co., Ltd (Union Steel Korea);
- galvanised steel and aluminium zinc coated steel exported from Taiwan by Sheng Yu Co., Ltd (Sheng Yu); and
- galvanised steel exporter from Taiwan by Ta Fong Steel Co., Ltd (Ta Fong).

Termination Report No. 190A (TER 190A) sets out the reasons for these terminations. This report is available on the Commission's public record.

On 2 May 2013, the Commission terminated its dumping investigation into aluminium zinc coated steel exported from Taiwan. Termination Report No. 190B (TER 190B) sets out the reasons for this termination. This report is available on the Commission's public record.

On 17 June 2013, the Commission terminated its countervailing investigation into:

- galvanised steel exported by Angang Steel Company Limited (ANSTEEL) and ANSC TKS Galvanising Co., Ltd (TAGAL); and
- aluminium zinc coated steel exported by ANSTEEL,

Termination Report No. 193(i) (TER 193(i)) sets out the reasons for these terminations. This report is available on the Commission's public record.

### **Exemptions**

The Attorney-General has considered REP 190 and REP 193 and accepted the Commission's recommendation to grant exemptions from dumping duty and countervailing duty for certain goods.

All goods meeting at least one of the descriptions for Tariff Concession Orders (TCOs) that are currently in force are eligible for an exemption from dumping duty under Ministerial Exemption Instrument No. 1 of 2013 and from countervailing duty under Ministerial Exemption Instrument No. 2 of 2013. Copies of these exemption instruments are available on the Commission's website.

If importers believe that goods they are importing are eligible for exemption under the abovementioned exemption instruments, when they or their broker enter the goods for home consumption via the integrated cargo system the exemption category 'GOODS' should be selected and no dumping or countervailing duties will be applied to the shipment.

The decision to grant the exemptions outlined above does not prevent further applications for exemptions being considered. Where a party has a legitimate claim that it is unable to source its products from the Australian market because they are not produced here, or that they are unable to source the products under certain trade conditions, they may apply for an exemption from the imposed measures. This involves writing a request to the

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Commission outlining the details of the product an exemption is sought for, together with information as to why the exemption is being sought, including details of any quotes/correspondence obtained from the Australian industry when supply of products is an issue. Part of the inquiry process will then involve contacting the Australian industry to obtain its input before a recommendation is made.

Parties seeking an exemption should contact the Commission on 1300 884 159 for further information or by email [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au).

**Imposed measures**

In REP 190 Customs and Border Protection found that:

- galvanised steel exported from China, Korea and Taiwan to Australia was dumped with margins ranging from 2.6% to 62.9%;
- aluminium zinc coated steel exported from China and Korea to Australia was dumped with margins ranging from 5.5% to 19.3%;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

In REP 193, Customs and Border Protection found that:

- galvanised steel exported from China to Australia was subsidised with margins ranging from 5.2% to 22.8%;
- aluminium zinc coated steel exported from China to Australia was subsidised with margins ranging from 5.0% to 21.7%;
- the dumped and subsidised exports from China caused material injury to the Australian industry producing like goods; and
- continued dumping and subsidisation may cause further material injury to the Australian industry.

Particulars of the dumping and subsidy margins established for each of the exporters and the effective rates of duty are set out in the following table. The dumping duty that has been determined is an amount worked out in accordance with the combination of fixed and variable duty method.

**PUBLIC RECORD**

Galvanised steel

Country	Exporter	Dumping Margin	Method to establish dumping margin	Countervailable subsidy program/s*	Subsidy Margin	Effective Rate of Duty*
China	Angang Steel Co., Ltd	20.1%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss. 269TACB(2)(a) of the <i>Customs Act 1901</i> .	N/A	N/A	20.1%
	Ansc-Tks Galvanizing Co., Ltd (TAGAL)	32.7%		N/A	N/A	32.7%
	Wuhan Iron and Steel Co., Ltd	18.5%		3, 5, 11-13, 15, 17-19, 22, 28-31, 33-35	12.5%	21.6%
	Yieh Phui (China) Technomaterial Co., Ltd	6.8%		1, 11	5.2%	6.8%
	All other exporters	62.9%		1-3, 5, 9, 11-36	22.8%	69.9%
Korea	Dongbu Steel Co., Ltd	3.2%		N/A	N/A	3.2%
	POSCO	9.1%		N/A	N/A	9.1%
	Union Steel Co., Ltd	<2%		N/A	N/A	N/A
	All other exporters	28.5%		N/A	N/A	28.5%
Taiwan	Chung Hung Steel Corporation	8.5%		N/A	N/A	8.5%
	Sheng Yu Steel Co., Ltd	<2%	N/A	N/A	N/A	
	Yieh Phui Enterprise Co., Ltd	2.6%	N/A	N/A	2.6%	
	Ta Fong Steel Co., Ltd	<2%	N/A	N/A	N/A	
	All other exporters	8.6%	N/A	N/A	8.6%	

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Aluminium zinc coated steel

Country	Exporter	Dumping Margin	Method to establish dumping margin	Countervailable subsidy program/s*	Subsidy Margin	Effective Rate of Duty*
China	Angang Steel Co., Ltd	5.8%	Weighted average export prices were compared with weighted average corresponding normal values over the investigation period in terms of ss. 269TACB(2)(a) of the <i>Customs Act 1901</i> .	N/A	N/A	5.8%
	Union Steel China Co., Ltd	8.6%		1, 11, 35	7.9%	9.0%
	Yieh Phui (China) Technomaterial Co., Ltd	5.5%		1, 11	5.0%	5.5%
	Jiangyin Zong Cheng Steel Co., Ltd	18.1%		1, 11	10.3%	18.1%
	All other exporters	19.3%		1-2, 5, 9, 11-31, 33, 35-36	21.7%	29.5%
Korea	Dongbu Steel Co., Ltd	5.8%	N/A	N/A	5.8%	
	Union Steel Co., Ltd	<2%	N/A	N/A	N/A	
	All other exporters	7.7%	N/A	N/A	7.7%	

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\* The calculation of combined dumping and countervailing duties is not simply a matter of adding the dumping and subsidy margins together for any given exporter, or group of exporters. Rather, the collective interim dumping duty and interim countervailing duty imposed in relation to the goods, is the sum of:

- the subsidy rate calculated for all countervailable programs, and
- the dumping rates calculated, less an amount for the subsidy rate applying to Programs 1 to 3.

The normal value is the operative measure for all exporters from Korea and Taiwan and for all cooperating exporters from China. The lesser duty rule is therefore not in effect and duty has been imposed at the full level of dumping and subsidisation for these exporters.

The non-injurious price (NIP) is the operative measure in relation to exports by all exporters from China other than Angang Steel Co., Ltd, TAGAL, Wuhan Iron and Steel Co., Ltd, Union Steel China Co., Ltd, Yieh Phui (China) Technomaterial Co., Ltd and Jiangyin Zong Cheng Steel Co., Ltd. The lesser duty rule has taken effect to reduce the duties to a level sufficient to remove the injury caused by dumping and subsidisation.

Measures apply to goods that are exported to Australia after publication of the Minister's notice.

The actual duty liability may be higher than the effective rate of duty due to a number of factors. Affected parties should contact the Commission on 1300 884 159 or at [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au) for further information regarding the actual duty liability calculation in their particular circumstance.

Any dumping securities that have been taken on and from 6 February 2013, will be converted to interim dumping duty.<sup>1</sup> Securities will not be converted for imports of goods for which the Minister has granted an exemption from interim dumping duty. Importers will be contacted by the Regional Securities Officer in their respective capital city detailing the required conversion action for each security taken.

To preserve confidentiality, the export price, normal value and non-injurious price applicable to the goods will not be published. Bona fide importers of the goods can obtain details of the rates from the Dumping Liaison Officer in their respective capital city.

Clarification about how measures are applied to 'goods on the water' is available in ACDN 2012/34, available at the Commission website.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel in accordance with the requirements in Division 9 of Part XVB of the Act within 30 days of the publication of the Attorney General's notice.

REP 190, REP 193 and Termination Report Nos. 190A, 190B and 193(i) have been placed on the Commission's public record, available at [www.adcommission.gov.au](http://www.adcommission.gov.au). Alternatively, the public record may be examined by contacting the Case Manager on the details provided below.

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Enquiries about this notice may be directed to the case manager on 02 6275 5649, fax number 1300 882 506 or [operations2@adcommission.gov.au](mailto:operations2@adcommission.gov.au) .

Paul Benussi  
Acting National Manager Operations  
Anti-Dumping Commission

5 August 2013