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Ms Joanne Reid
Director, Operations 2
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear Ms Reid

Public File

Response to Statement of Essential Facts No. 193 – Subsidisation of Zinc Coated (Galvanised) steel and Aluminium Zinc Coated steel exported from The People’s republic of China.

Please find attached BlueScope steel Limited’s response to the Statement of essential facts No. 193 in respect of subsidisation of Galvanised steel and Aluminium Zinc coated steel exported from The People’s Republic of China.

If you have any questions concerning this letter, please do not hesitate to contact me on (02) 4275 3859.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Alan Gibbs".

Alan Gibbs
Development Manager – International Trade

Executive Summary

On 15 May 2013, Customs and Border Protection published Statement of Essential Facts ("SEF") No. 193 concerning the subsidization of zinc coated (galvanized) steel and aluminium zinc coated steel exported from the People's Republic of China ("China").

Customs and Border Protection has made a preliminary finding that certain galvanized steel and aluminium zinc coated steel exported from China to Australia during the investigation period 1 July 2011 to 30 June 2012 were benefiting from subsidies received from the Government of China ("GOC") and that the exports had caused material injury to the Australian industry manufacturing like goods.

Customs and Border Protection also determined that:

- exports of aluminium zinc coated steel by Angang Steel Company Limited ("Ansteel") and ANSC-TKS Galvanising Co., Ltd ("TAGAL"); and
- exports of galvanized steel by TAGAL,

were subsidized, but the subsidy margin was negligible.

In addition to the preliminary findings, Customs and Border Protection has also made a Preliminary Affirmative Determination ("PAD") that permits Customs and Border Protection to put securities in place under Section 42 of the Customs Act 1901, in order to prevent further material injury to the Australian industry from occurring. Due to the "quantum" of the dumping securities currently in place on Chinese exporters of galvanized steel and aluminium zinc coated steel, Customs and Border Protection has decided to not require and collect countervailing securities at this time.

BlueScope Steel Limited ("BlueScope") is the sole manufacturer of galvanized steel and aluminium zinc coated steel in Australia.

BlueScope endorses the findings contained in SEF No. 193. Customs and Border Protection's investigations into BlueScope's allegations that Chinese exporters of galvanized steel and aluminium zinc coated steel have benefited from a range of subsidies (including, but not limited to certain HRC, coking coal, and coke at less than adequate remuneration) have been substantiated. The verification visits with cooperative Chinese exporters of the goods under consideration ("GUC") have also confirmed that certain benefits have been received under 33 additional subsidy programs.

BlueScope also welcomes Customs and Border Protection's proposed recommendations to collect interim dumping duties and interim countervailing duties imposed in relation to galvanized steel and aluminium zinc coated steel from China, which will be the sum of:

- the subsidy rate calculated for all countervailable programs, including Programs 1,2 and 3; and
- the dumping rates calculated, less an amount for the subsidy rate applying to Programs 1, 2 and 3.

BlueScope has noted Customs and Border Protection's comments concerning the taking of countervailing securities from the date of the PAD. However, BlueScope would highlight that it has suffered injury from Chinese exports of subsidized galvanized steel and aluminium zinc coated steel for an extended period of time. Whilst BlueScope understands there is some administrative difficulty associated with publishing a PAD and requiring securities to be paid (and taking account of shipment times for goods on the water affected by the imposition of the securities), it does not consider that the Chinese exporters should be afforded any extended period of grace leading into the date at which the Minister imposes countervailing duties.

On the grounds that a PAD reflects injury has been caused by subsidized exports, the countervailing measures are justified and should apply from the date of the PAD.

Following the publications of SEF No. 190 and 193 (in so far as they apply to exports of the GUC from China) BlueScope requests Customs and Border Protection to recommend to the Minister that dumping and countervailing measures (above negligible levels of calculated dumping and subsidy margins) be applied to Chinese exporters of galvanized steel and aluminium zinc coated steel.

1.0 Background and Investigation Findings

Customs and Border Protection has published SEF No. 193 following investigations into separate applications lodged by BlueScope concerning the subsidization of zinc coated (“galvanized”) steel and aluminium zinc coated steel exported from China.

SEF No. 193 details Customs and Border Protection’s investigations with the GOC and cooperative Chinese exporters (including Ansteel, Tagal, Union Steel China Co., Ltd, Wuhan Iron and Steel Company Limited, Yieh Phui Technomaterial Co., Ltd, and Jiangyin Zeng Cheng).

Customs and Border Protection has preliminarily determined that subsidy benefits under the following programs were received in respect of galvanized steel and aluminium zinc coated steel exported to Australia from China:

Program No.	Program Name
1	Hot rolled steel provided by government at less than adequate remuneration
2	Coking coal provided by government at less than adequate remuneration
3	Coke provided by government at less than adequate remuneration
4	Preferential Tax policies for Enterprises with Foreign Investment Established in Coastal Economic Open Areas and Economic and Technological Development Zones
5	Preferential Tax Policies for Foreign Invested Enterprises – Reduced Tax Rate for Productive Foreign Invested Enterprises Scheduled to operate for a period of not less than 10 years
6	Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)
7	Preferential Tax Policies for Enterprises with Foreign Investment established in Pudong Area of Shanghai
8	Preferential Tax Policies in the Western Regions
9	Land Use Tax Deduction
10	Preferential Tax Policies for High and New technology Enterprises
11	Tariff and Value-added tax (VAT) Exemptions on Imported Materials and Equipment
12	One-Time Awards to Enterprises Whose Products Qualify for ‘Well-Known TradeMarks of China’ and ‘Famous Brands of China’ Awards
13	Matching Funds for International Market Development for Small and Medium Enterprises
14	Superstar Enterprise Grant
15	Research & development (R&D) Assistance Grant
16	Patent Award of Guangdong Province
17	Innovative Experimental Enterprise Grant
18	Special Support Fund for Non State-Owned Enterprises
19	Venture Investment Fund of Hi-Tech Industry
20	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
21	Grant for key enterprises in equipment manufacturing industry of Zhongchang
22	Water Conservancy Fund Deduction
23	Wuxing District freight Assistance
24	Huzhou City Public Listing Award
25	Huzhou City Quality Award

Program No.	Program Name
26	Huzhou Industry Enterprise Transformation & Upgrade Development
27	Wuxing District Public List Grant
28	Anti-Dumping Respondent Assistance
29	Technology Project Assistance
30	Capital Injections
31	Environmental Protection Grant
32	High and New Technology Enterprise Grant
33	Independent Innovation and High-Tech Industrialization Program
34	VAT refund on domestic sales by local tax authority
35	Environmental Prize
36	Jinzhou District Research and Development Assistance Program

The subsidy margins for each cooperative exporter and for the non-cooperative exporters (collectively) are as follows:

(i) *Galvanized steel*

Manufacturer/exporter	Preliminary Subsidy Margin
Ansteel	Negligible
Tagal	Negligible
Wuhan Iron and Steel Company Limited	12.5%
Yieh Phui Technomaterial Co., Ltd	5.2%
All other exporters	22.8%

(ii) *Aluminium zinc coated steel*

Manufacturer/exporter	Preliminary Subsidy Margin
Ansteel	Negligible
Union Steel China Co. Ltd	7.9%
Yieh Phui Technomaterial Co., Ltd	5.0%
Jiangyin Zeng Cheng	10.3%
All other exporters	21.7%

Cumulation

Customs and Border Protection has determined that it is reasonable to cumulate the effects of the dumped galvanized steel and aluminium zinc coated steel exported from China (Investigations 190(a) and 190(b)) with the effects of the subsidization of exports of the GUC from China.

BlueScope concurs with this assessment as it has been both the dumping and subsidization that has caused material injury to the Australian industry and that exports of the GUC from China are the largest import sources for both products during the investigation period.

Injury

Customs and Border Protection validated BlueScope's injury claims and was satisfied that the Australian industry had suffered injury in each of the forms identified below.

(i) **Galvanized Steel**

- loss of sales volume;
- reduced market share;
- reduced sales revenue;
- price depression;
- price suppression;

- reduced profit and profitability;
- reduced return on investment (“ROI”);
- reduced ability to raise capital for re-investment; and
- reduced employment.

(ii) Aluminium Zinc Coated Steel

- loss of sales volume;
- reduced sales revenue;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced ROI;
- reduced ability to raise capital for re-investment; and
- reduced employment.

The profit impacts to BlueScope in the galvanized steel and aluminium zinc coated steel businesses in the 2011/12 investigation period are shown in Section 10.8 of SEF No. 193. As indicated in BlueScope’s response to SEF No. 190, the profit impact has been material from the dumping and subsidization.

Causation

Customs and Border Protection assessed material injury to the Australian industry on a macro- and micro-analysis basis. The macro-analysis involved an examination of imports, market share, prices and industry performance across the Australian industry. Price undercutting analysis involved a comparison of the imported and locally produced goods on the basis of pricing for the total class of the goods and pricing by product categories.

The micro-analysis involved an examination of the effects of dumping and subsidization on injury to the Australian industry at a model-specific product level and within particular market sectors.

(i) Galvanized Steel

Customs and Border Protection determined that in order to maintain market share in a declining market, BlueScope reduced its selling prices for galvanized steel to match import prices. It was also determined that the ‘greatest pricing pressure’ for the Australian industry came from the countries selling at dumped and/or subsidized prices. This was demonstrated at both the macro and micro level analysis. Customs and Border Protection confirmed that it was satisfied that the price depression and suppression experienced by BlueScope in its galvanized steel sales had impacted BlueScope’s profit and profitability.

(ii) Aluminium Zinc Coated Steel

SEF No. 190 confirmed that BlueScope’s selling prices for aluminium zinc coated steel were “*undercut by all nominated countries in all quarters*”¹. The analysis also confirmed that imports from the nominated countries (China, Korea and Taiwan) were the lowest priced imports from all sources and that the pricing pressures to match IPP prices originated from the selling prices for aluminium zinc coated steel imported from China, Korea and Taiwan.

As with galvanized steel, Customs and Border Protection was satisfied that the dumping and subsidization had resulted in BlueScope experiencing price depression and price suppression during the investigation period, resulting in a “significant decrease” in BlueScope’s profit and profitability in the aluminium zinc coated steel business.

¹ SEF No. 190, P.93.

Conclusions on subsidization and causation

Customs and Border Protection has stated that it is satisfied “*based on the information submitted in the application and verified data collection in respect of galvanized steel, BlueScope has demonstrated that it has suffered injury in respect of galvanized steel and that there are reasonable grounds for concluding that dumping and/or subsidization of galvanized steel exported to Australia from China, Korea and Taiwan has caused material injury to the Australian injury producing like goods*”.

In relation to aluminium zinc coated steel Customs and Border protection is also satisfied that “*based on the information submitted in the application and verified data collection in respect of aluminium zinc coated steel, BlueScope has demonstrated that it has suffered injury in respect of aluminium zinc coated steel and that there appears to be grounds for concluding that the dumping and/or subsidization of aluminium zinc coated steel exported to Australia from China and Korea has caused material injury to the Australian industry producing like goods.*”

BlueScope agrees with Customs and Border Protection’s preliminary assessment on causation in both the galvanized steel and aluminium zinc coated steel investigations. BlueScope has matched the dumped and/or subsidized exports from the nominated countries in both products and by responding to the dumped and subsidized prices, BlueScope’s profit and profitability have been materially retarded.

2.0 Like Goods

SEF No. 193 indicates that the Chinese Iron and Steel Association (“CISA”) has submitted that “all products with a width greater than 1550mm should be exempt” from any measures on the basis that BlueScope cannot manufacture a product of this size.

BlueScope disagrees with this proposition. BlueScope agrees with Customs and Border Protections’ assessment that a general exemption should not be afforded for goods manufactured in excess of 1550mm as the Australian industry can provide locally-produced substitutable products in this size range.

BlueScope supports a ‘case-by-case’ assessment for exemption in this regard.

3.0 Exemptions

BlueScope’s response to SEF No. 190 adequately addresses BlueScope’s views with respect to each of the identified requests for exemption from measures on galvanized steel and aluminium zinc coated steel.

Please refer to the BlueScope response to SEF No. 190 dated 8 April 2013.

4.0 Non-injurious price

BlueScope accepts Customs and Border Protection’s comments that in a market unaffected by dumping and subsidization it would be expected that BlueScope – as a minimum – could achieve selling prices that reflect non-dumped and non-subsidized import prices.

However, this proposition does not take account of the price premium that BlueScope has demonstrated that it can achieve on the domestic market for galvanized steel and aluminium zinc coated steel.

BlueScope contends that the non-injurious price should reflect an amount for a price premium for local supply.

5.0 EU Countervailing Finding on Coated Steel

Customs and Border Protection has referenced the recent European Commission (“EC”) finding concerning the dumping and subsidization of organic coated steel exported from China to the European Union. On 11 March 2013 the Commission published a “council Implementing Regulation (EU) Numbers 214/2013 and 21/2013 imposing anti-dumping and countervailing duties on imports of certain organic coated steel products from China.

The EC investigation period overlapped the investigation period of Customs and Border Protection’s investigations into galvanized steel and aluminium zinc coated steel by one quarter.

Customs and Border Protection’s preliminary findings on galvanized steel and aluminium zinc coated steel are consistent with the EC’s investigations into organic coated steel exports from China.

6.0 Do State Invested Enterprises Qualify as Public Bodies

In Trade Measures Report No. 203, Customs and Border Protection reaffirmed its finding in Report No. 177 (Hollow Structural Sections exported from China, Korea, Malaysia and Taiwan) that State Invested Enterprises (“SIEs”) in China that produce hot rolled coil (“HRC”) and/or narrow strip should be considered to be ‘public bodies’.

The original Report No. 177 referred to a WTO Appellate body finding in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* dispute (DS379) which considered the meaning of ‘public body’. The dispute considered three indicators to be assessed when examining whether an entity could be considered a public body. The three indicators were:

- where a statute or other legal instrument expressly vests government authority in the entity concerned;
- where there is evidence that an entity is, in fact, exercising governmental functions may serve as evidence that it possesses or has been vested with governmental authority; and
- where there is evidence that a government exercises meaningful control over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance of governmental functions.

Customs and Border Protection did not obtain any information to confirm the existence of any specific statute or legal instrument vesting government authority in HRC producers. In respect of the performance of governmental functions, Customs and Border Protection identified Article 36 of the SOA Law, which requires:

“A state-invested enterprise making investment shall comply with the national industrial policies, and conduct feasibility studies according to the state provisions; and shall conduct a transaction on a fair and paid basis, and obtain a reasonable consideration.”

Customs and Border Protection considered that this direction required SIEs to comply with national industrial policies, of which it noted there were a number applicable to the Chinese iron and steel industry. Customs and Border Protection was also satisfied that the GOC exercised meaningful control over the HRC producers in China to implement its policies and plans for the Chinese iron and steel industry.

BlueScope provided Customs and Border Protection with a briefing document prior to the conduct of verification visits with Chinese cooperative exporters. In this document, BlueScope had identified as supportive evidence of the GOC’s influence of entities in the Chinese iron and steel industry exercising governmental functions and being the subject of

GOC control, the publicly stated comments of the Wuhan Iron and Steel Group on its website that it has successfully met the targets and requirements of the GOC's "Eleventh Five Year Plan" to rationalize and consolidate its manufacturing operations.

In addition to the relevant information identified by Customs and Border Protection in Report No. 203 that supports its finding that SIEs are acting as public bodies, BlueScope contends that the Wuhan Groups' statements are considered relevant to the exercising of governmental functions and subject to government control as the Wuhan Group is also controlled by the State-Owned Assets Supervision & Administration Commission of the State Council ("SASAC"), the GOC body that controls competition in the Chinese domestic economy. The GOC through SASAC has the influence to manage and control the delivery of GOC policies and objectives for the Chinese iron and steel industry.

BlueScope wholly supports the comments and findings of Customs and Border Protection at Section 7 of Report No. 203. In addition, BlueScope submits that information is publicly available that Chinese exporters of the GUC are subjected to the GOC's policies and plans for the Chinese iron and steel industry and must deliver on the policies and plans. Entities in the Chinese iron and steel industry are therefore operating and performing government functions as they are the subject of government influence (via the control exercised by SASAC on SIEs in the industry) and are essentially extensions of the arm of government in China.

7.0 Programs at less than adequate remuneration

BlueScope has examined the grounds outlined by Customs and Border Protection for determining whether certain raw materials (i.e. HRC, coking coal, and coke) have been sold at less than adequate remuneration to steel manufacturers producing galvanized steel and/or aluminium zinc coated steel in China that is exported to Australia.

BlueScope provides the following comments on the appropriate benchmark for determining whether the input has been supplied at less than adequate remuneration.

7.1 HRC at less than adequate remuneration

In assessing an appropriate benchmark to consider whether HRC sold in China is at less than adequate remuneration, the following was assessed:

- private domestic prices of non-government owned entities in China;
- import prices; and
- external benchmarks.

It was considered by Customs and Border Protection that private domestic prices were influenced by the selling prices of SIEs as there was no significant difference in Chinese prices for HRC from SIEs and private suppliers. Import prices for HRC were considered unsuitable as only small volumes of HRC were imported into China during the investigation period.

As indicated in SEF No. 190, Customs and Border Protection's preferred benchmark was a weighted average price of HRC paid by Korean and Taiwanese HRC producers of galvanized steel and aluminium zinc coated steel in Korea and Taiwan.

Whilst BlueScope is supportive of the nominated benchmark methodology, it is considered that the proposed benchmark is not a publicly available price that can be readily referred to in future reviews and/or duty assessment investigations. In support of earlier representations on this issue, BlueScope maintains that the appropriate benchmark methodology is the Japanese domestic HRC price, FOT truck as published by SBB.

BlueScope requests that Customs and Border Protection re-consider the appropriate benchmark for HRC in China in the galvanized steel and aluminium zinc coated steel

investigations, as the HRC benchmarks of Korea and Taiwan are not publicly available and are not readily accessible for review and/or duty assessment inquiries.

7.2 *Coking Coal at less than adequate remuneration*

Similarly, in assessing an appropriate benchmark for coking coal consumed by integrated Chinese producers of galvanized steel and aluminium zinc coated steel, Customs and Border Protection considered available sources for coking coal pricing. The following benchmarks were assessed:

- private domestic prices;
- import prices; and
- external benchmarks.

For similar reasons due to domestic prices for coking coal and limited imports of coking coal, Customs and Border Protection focused upon external benchmark prices for coking coal. Considerations included:

- Chinese export prices for coking coal;
- Australian export prices for coking coal;
- Import prices for coking coal in a third country (e.g. India); and
- Korean and Taiwan prices for coking coal.

Customs and Border Protection rejected the Australian export prices as being influenced by the Queensland Floods of 2011/12. None of the Taiwanese exporters are fully integrated and therefore coking coal is not a purchased raw material by these companies. There is no domestic market for coking coal in Korea (or Taiwan), so no domestic market price can be determined. Customs and Border Protection has therefore elected to use the Chinese export price for coking coal (exclusive of taxes) as supplied by the GOC as the appropriate benchmark price for establishing whether Chinese domestic coking coal was sold at less than adequate remuneration during the investigation period.

BlueScope does not have access to the Chinese export prices for coking coal. It is unable to assess whether the prices selected are reasonable for the purposes of assessing whether coking coal has been sold at less than adequate remuneration in China. It is BlueScope's preference that a transparent benchmark (e.g. SBB published prices for coking coal) be utilized for this purpose, so that regular references can be made (again, for review and duty assessment purposes).

7.3 *Coke at less than adequate remuneration*

Customs and Border Protection has followed a similar methodology for assessing an appropriate external benchmark for coke sold at less than adequate remuneration in China.

A benchmark price using Chinese export prices for coke has been selected by Customs and Border Protection as an appropriate benchmark.

BlueScope considers that an appropriate benchmark price for coke at less than adequate remuneration is one that is publicly available from a respected industry source (e.g. SBB).

8. Conclusions

SEF No. 193 details Customs and Border Protection's preliminary findings concerning investigations into the subsidization of galvanized steel and aluminium zinc coated steel exported from China. BlueScope welcomes Customs and Border Protection's preliminary findings confirming the existence of 36 subsidy programs that have afforded a benefit to Chinese exporters of galvanized steel and aluminium zinc coated steel.

BlueScope agrees with Customs and Border Protection's assessment that it is appropriate to cumulate the effect of the injury from the dumping and subsidization of injurious exports from China, Korea and Taiwan (in accordance with s.269TAE(2C)(e)).

BlueScope also agrees with the preliminary finding that the Australian industry manufacturing galvanized steel and aluminium zinc coated steel has suffered material injury through lost sales volumes and market share, price depression and price suppression that have impacted profit and profitability.

It is noted by BlueScope that Customs and Border Protection has made a PAD but not elected to collect securities. It is BlueScope's view that the Chinese exporters have benefited from extended timeframes of exporting and subsidized prices that have injured the Australian industry. The injurious exports should be addressed at the earliest opportunity and the imposition of securities via a PAD provides the appropriate mechanism.

BlueScope endorses the recent findings accepted by the Minister in Report No. 203 that established Chinese HRC and narrow strip producers as public bodies. BlueScope agrees that the available public information supports a finding that SIEs in China are subject to influence and control by the GOC and operate as an extension of the arm of the GOC.

It is BlueScope's position that benchmark prices used in assessing whether raw material input costs used in the manufacture of galvanized steel and aluminium zinc coated steel are sold at less than adequate remuneration in China should be referenced with a publicly available price. As such, the benchmark price can be readily accessed for the purposes of establishing whether grounds exist for review of variable factors or in duty assessment investigations. BlueScope therefore considers an appropriate benchmark price is that available from a respected industry reference source (e.g. SBB).

BlueScope requests that the delegate of the CEO of Customs and Border Protection consider the comments included in this submission and recommend to the Minister that countervailing measures be imposed on future exports of galvanized steel and aluminium zinc coated steel exported from China.