

Received by ADC 17 July 2015

BEFORE THE AUSTRALIAN ANTI DUMPING COMMISSION

**ANTI DUMPING INVESTIGATION CONCERNING IMPORTS OF
ZINC COATED (GALVANISED) STEEL FROM INDIA AND VIETNAM**

**SUBMISSIONS
ON BEHALF OF:
UTTAM GALVA STEELS LIMITED**

THROUGH



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BlueScope Steel Limited (“BlueScope”) has requested the imposition of antidumping measures on exports of zinc coated (galvanised) steel (“the goods”) exported from India and the Socialist Republic of Vietnam (“Vietnam”). BlueScope has rejected the Anti-Dumping Commission’s (“the Commission”) proposed termination of inquiries into exports of the goods from Indian and Vietnam vide its response dated 6th July 2015 to the Statement of Essential Facts No. 249 (“submission”). The Commission should note that the arguments put forth by BlueScope in its submission are merely unsubstantiated claims, insofar as they relate to Uttam Galva Steels Limited (“Uttam Galva”).

Uttam Galva requests the Commission to maintain its findings in the Statement of Essential Facts and terminate this investigation in so far as it relates to Uttam Galva. In particular, the Commission should reject the submissions of BlueScope in its Submission for the following reasons.

A. No obligation to conduct on-site verification

1. Neither the Australian anti-dumping legislation nor the WTO Anti-Dumping Agreement mandates that the Commission undertake an on-site verification of responses to an exporter’s questionnaire. In this regard, it is pertinent to note Article 6.7 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (“AD Agreement”):

In order to verify information provided or to obtain further details, the authorities may carry out investigations in the territory of other Members as required, provided they obtain the agreement of the firms concerned and notify the representatives of the government of the Member in question, and unless that Member objects to the investigation. The procedures described in Annex I shall apply to investigations carried out in the territory of other Members. Subject to the requirement to protect confidential information, the authorities shall make the results of any such investigations available, or shall provide disclosure thereof pursuant to paragraph 9, to the firms to which they pertain and may make such results available to the applicants.

Further, the Panel in Argentina — Ceramic Tiles¹ indicated in a footnote that, although common practice, there is no requirement to carry out on-the-spot verifications:

“There does not exist a requirement in the Agreement to carry out investigations in the territory of other Members for verification purposes. Article 6.7 of the AD Agreement merely provides for this possibility. While such on-site verification visits are common practice, the Agreement does not say that this is the only way or even the preferred way for an investigating authority to fulfil its obligation under Article 6.6 to satisfy itself as to the accuracy of the information supplied by interested parties on which its findings are based.”

2. It is for the authorities to satisfy themselves as to the reliability of information they use in a dumping investigation. The Commission may verify the information in an application or submission through a desktop review, questions to the submitter or an on-site visit. BlueScope should recognise the fact that dumping inquiries have to be conducted against a timetable that imposes limits on how much time can be spent on on-site verification visits by the Commission and the discretion to verify an exporter’s submission on-site or not is purely at the discretion of the Commission.
3. BlueScope’s submission is based on the fact that the Commission did not conduct on-site verification of Uttam Galva’s response to the exporter questionnaire. This submission ignores the fact that the Commission benchmarked key information provided by Uttam Galva in its response to the exporter questionnaire against verified information from other exporters and information in Customs’ database. The Commission found that that benchmarking indicated that the information provided by Uttam Galva was reliable.
4. While BlueScope may not consider that the information supplied by exporters in exporter questionnaire responses upon which normal value assessments have been made, can be readily relied upon, that is mere speculation on its part. It is solely the obligation of the Commission to satisfy itself as to the reliability and

¹ See Panel Report, *Argentina — Ceramic Tiles*, footnote 65. See also Panel Report, *Egypt — Steel Rebar*, paras. 7.326–7.32

accuracy of the information supplied by interested parties on which Commission's findings are based. BlueScope can only identify errors of fact or calculation, if any, contained in the reports issued by the Commission, in including the Statement of Essential Facts. It has not identified any errors supported by evidence.

B. There is no incentive for exporters to deliberately provide inaccurate information

5. BlueScope's suggestion that non-verification of responses to exporter questionnaires by the Commission will encourage exporters to supply inaccurate information in such responses is completely unfounded and lacks any substance. It fails to recognise why the Commission may elect not to conduct on-site verification of exporter responses, which it is under no legal obligation to undertake. Furthermore, even though the Commission has not undertaken an on-site verification, it still is the Commission's practice to test the accuracy and reliability of the information provided by other means, as occurred for Uttam Galva in this instance. Moreover, it fails to recognise that an exporter who deliberately provided false or misleading information and whose information was then verified by the Commission may receive a significantly worse outcome than if it had provided accurate information, whether with or without inadvertent errors. In other words, there is greater incentive for exporters to provide accurate, complete and reliable information in responses to an exporter questionnaire.

6. At the time of filing the exporter questionnaire response in September 2014, Uttam Galva could not have predicted whether or not the Commission would elect to not conduct an on-site verification with respect to the information supplied in its exporter questionnaire response, the manner in which the Commission would exercise its discretion could not have been predicted at that time. Given such uncertainty as whether or not an on-site verification would be undertaken, reveals the lack of substance or any logical basis for its submission on this issue.

C. Price determination on the basis of Essar's selling price is not appropriate

7. BlueScope has suggested that since Uttam Galva competes with Essar in both export markets and the Indian domestic market, Uttam Galva's export prices and domestic selling prices should be the same or similar. This is mere speculation

based on false assumptions unsupported by any evidence. It is not unusual for prices of competitors in a single country to be different due to a variety of commercial factors such as product mix, core customer base, production processes, marketing strategies, terms and conditions of trade, and such other factors.

8. It would be highly unusual in a market for pricing for a product between competitors to be identical or almost identical. In such a situation there would be no competition, at least not on price, giving rise to the questions whether a competitive market in fact exists. In any event, BlueScope Steel's submission fails to recognise that in any competitive market prices between competitors will be different for a variety of sound commercial reasons.
9. The Commission may note that perusal of almost any of the Commission's Statement of Essential Facts or Reports in other investigations reveals different dumping margins between exporters from the same country, indicating differences not only in pricing but also the terms and conditions in which they conduct their respective businesses. Those documents also reveal differences in pricing between imports and prices of domestically produced products. If there was any substance to BlueScope's submission all such pricing should be uniform, which clearly has never been the case.

D. Prices in related party transactions were not influenced by the fact that the parties to the transaction were related

10. BlueScope's submission on the normal value calculation for Uttam Galva and, in particular, in respect of related party transactions suggests that BlueScope misunderstood the Commission's report. The Commission has clearly noted in its Dumping Margin Calculation Report for Uttam Galva that it had compared prices in related party transactions with those in unrelated party transactions and found them to be similar. The relevant extract from the Dumping Margin Calculation of Uttam Galva is stated below:

"2.1.1 Related party transactions

Uttam Galva's response to the Exporter Questionnaire provided details of related party transactions during the investigation period, which included sales to a wholly

owned subsidiary and (what was described as) a co-promoter. These sales comprised approximately [REDACTED] % of Australian export sales.

After considering the information provided in the response to the Exporter Questionnaire and comparing the weighted average prices per tonne for related and unrelated customers, the assessment team considered that all domestic sales during the investigation period were arm's length transactions."

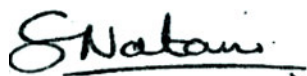
Accordingly, the evidence indicates that prices in related party transactions have not been affected by the fact that the parties are related but, rather, such prices reflect pricing in transactions between unrelated parties. BlueScope Steel's submission on this issue again lacks substance and must be disregarded.

E. Conclusion

11. We note that the Commission has found negative dumping margins for Uttam Galva, as reflected in the Statement of Essential Facts No. 249 and this finding should be upheld and the investigation be terminated in relation to Uttam Galva pursuant to section 269TDA(1) of the *Customs Act 1901* and we look forward to the Commission's confirmation that it has so terminated this investigation.

12. Further, for the reasons given earlier above, BlueScope Steel's submissions in its Submission should be rejected.

Sincerely submitted on 16th July 2015

A handwritten signature in black ink, appearing to read "S. Notani", with a horizontal line underneath.

Sanjay Notani

Partner