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The Director
Operations 4
Anti-Dumping Commission
Customs House
1010 La Trobe Street
MELBOURNE DOCKLANDS Victoria 3008

Dear Sir/Madam,

For Public File

Investigation No. 193A – Subsidisation of Zinc Coated (Galvanised) Steel and Aluminium Zinc Coated Steel exported from the People’s Republic of China

Introduction

I refer to Statement of Essential Facts (“SEF”) No. 193A concerning the resumed investigation into exports of galvanised steel and aluminium zinc coated steel exported to Australia by Angang Steel Company Limited (“ANSTEEL”) of the People’s Republic of China (“China”).

The SEF details the Anti-Dumping Commission’s (“the Commission”) preliminary findings:

- ANSTEEL, a producer of galvanised steel and aluminium zinc coated steel exported from China, was in receipt of countervailable subsidies during the investigation period;
- However, the countervailable subsidies never exceeded the negligible level of countervailable subsidy during the investigation period.

The Commission is proposing to terminate the investigations as they relate to ANSTEEL in accordance with s.269TDA(2).

BlueScope Steel Limited (“BlueScope”) is the applicant company that sought the imposition of countervailing measures on exports from China. Australian Customs Dumping Notice No. 2013/78 notified the resumption of the countervailing investigations into zinc coated (galvanised) steel and aluminium zinc coated steel exported to Australia from China by ANSTEEL.

Appeals of Report Nos. 193 and 190

On 4 September 2013 the Ministry of Commerce of the Government of China (“GOC”) sought a review of the decisions of Reports No. 193 and 190. One of the grounds of review included “*the characterisation of State Invested Enterprises (SIEs) as public bodies*”. Following review, the Anti-Dumping Review Panel (“ADRP”) recommended that the Parliamentary Secretary affirm the decisions to publish dumping duty notices and revoke the decisions to publish countervailing duty notices.

ADN No. 2014/12

ADN No. 2014/12 summarized the Parliamentary Secretary's decision in relation to the ADRP's recommendations relating to the GOC's application for the review of the decision to impose countervailing duties on exports of zinc coated galvanised steel and aluminium zinc coated steel exported from China.

ADN No. 2014/12 states:

"The Parliamentary Secretary to the Minister for Industry has considered and accepted the recommendation to affirm the decisions to publish dumping duty notices for both galvanised steel and aluminium zinc coated steel, including all material findings of fact or law relating to that recommendation as set out in the ADRP Report.

"The Parliamentary Secretary has also considered and accepted the findings of the ADRP Report, including all material findings of fact and law, in relation to the grounds for review of the decision to publish countervailing duty notices. However, the Parliamentary Secretary did not accept the ADRP's recommendation to revoke the countervailing duty notices but decided to vary the countervailing duty notices so as to reduce the countervailable subsidies by the amounts referable to programs 1 to 3 describe in REP 193."

The Parliamentary Secretary did not revoke the countervailing duty notices in relation to exporters of the goods under consideration from China as there existed programs other than programs 1 to 3 that afforded countervailable benefits to Chinese exporters.

BlueScope supports the Parliamentary Secretary's approach in this regard.

BlueScope position re SEF 193A

BlueScope understands, however, that the Commission has indicated in SEF No. 193A that as a consequence of the *"Parliamentary Secretary's variation of Investigation 193's finding [having] the effect that suppliers of coking coal are not considered to be public bodies, the Commission considers that the claims surrounding the use of the particular benchmark to quantify the benefit derived from receiving supply at less than adequate remuneration from such entities are no longer of significance in this resumed investigation"* (emphasis added).

The Parliamentary Secretary has accepted the ADRP's recommendation that the Chinese suppliers of coking coal cannot be considered public bodies, even though they may be SIEs. It was the view of the ADRP Panel Member that the material considered in Investigation No. 193 does not *"support a finding that the control exercised over the SIEs by the GOC was such that they were "instruments" of the GOC¹."*

BlueScope does not, respectfully, agree with the ADRP Member's interpretation that the GOC does not exercise control over SIEs and therefore are not considered public bodies.

The ADRP Panel member reviewed the relevant (three) *indicia* examined by the Commission in its assessment as to whether SIEs are public bodies. BlueScope agrees with the Commission's assessment that sufficient available information existed for a positive finding that *indica* 2 and 3 were satisfied.

¹ ADRP Report on the Review of decisions regarding dumping duties and countervailing duties for Zinc Coated (Galvanised) Steel and Aluminium Zinc Coated Steel exported from the People's Republic of China, dated 15 November 2013.

BlueScope takes this opportunity to confirm its agreement with the Commission's original findings in Report No. 193 that sufficient information was available to find that SIEs were public bodies in the circumstances examined in Report No. 193.

BlueScope would highlight that the findings as to SIEs as public bodies in the Chinese iron and steel industry have also been established by the Canadian Border Services Agency and the U.S Department of Commerce.

BlueScope therefore does not agree with the ADRP Panel member's interpretation on SIEs, nor does it agree with the Parliamentary Secretary's acceptance of the ADRP's recommendation.

BlueScope reiterates previous representations that the Commission (or the then Australian Customs and Border Protection Service) should not have used Chinese export prices as the appropriate benchmark for quantifying the coking coal subsidy program, but the higher premium quality coal export prices from Australia as the relevant benchmark.

As previously stated that once account is made of the higher quality coking coal benchmark for ANSTEEL under the coking coal at less than adequate remuneration program, the aggregate subsidy margin for ANSTEEL will exceed 2 per cent (across certain periods, if not all of, the investigation period).

Following full account of the appropriate benchmark for assessing adequate remuneration for coking coal exported by ANSTEEL (and adjusting the benchmark to reflect the comparable quality of coking coal consumed by the exporter), along with the appropriate discount rate to assess the benefit received by ANSTEEL under Program 30 (despite the change being considered immaterial by the Commission), it is considered that the value of subsidised benefits available to ANSTEEL exceeds the negligible level.

Please do not hesitate to contact me if you have any questions concerning this submission. I can be contacted on (02) 4275 3859 direct.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Alan Gibbs', is positioned above the typed name.

Alan Gibbs
Development Manager – International Trade Affairs