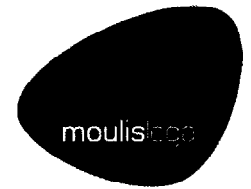


27 August 2012



China Steel Corporation

Alleged dumping of hot-rolled coil

Verification notes - Sales for comparison purposes

On behalf of CSC, we wish to explain the date on which domestic and export sales are effected, for the purposes of matching the period in which the sales of the goods exported were sold with the corresponding domestic sales.

We advised at the verification on 23 August that we intended to do this, in light of the confusion on this point which had arisen from the use of the "price quarter" concept by our client in its EQ response.

A Reason/importance

The period of investigation ("POI") for dumping purposes is 1 April 2011 to 31 March 2012. This describes the period in which the like goods were exported to Australia. Simply knowing that the POI is a certain period does not resolve the question of the sales on the domestic and export side that need to be compared for dumping purposes.

The first step of the analysis is to work out the period over which the *physical exports* in the POI were *actually sold*.

The second step of the analysis is to work out which sales in the domestic market took place over the same period as the period in which the export sales were actually sold.

B First step – period of export sales

The export sales process as explained at the verification involves CSGT negotiating on behalf of CSC with the importer [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation]. The email exchange between CSGT and the customer settles the

NON-CONFIDENTIAL VERSION

base price and the overall quantity for goods which are targeted for invoicing and delivery in the next quarter.

Although the base price is settled, and the quantity to be purchased is also settled, [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation] Finalising [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation] does not take place until the customer contacts CSGT to make an order (or *vice versa* – CSGT contacts the customer to prompt the order the customer is committed to make). The documents provided to Customs entitled "Sales Order" constitute the order. CSGT then reflects the "Sales Order" in a "Sales Confirmation" to the customer.

It is this Sales Order which settles all aspects of the particular sale concerned. This in our view is the relevant date of sale of the exports.

Thus the first step of the analysis requires Customs to determine the earliest order date of the *exports* in the POI. This date will form the start of the period in which export *sales* to Australia took place ("the export sale start date"). The same exercise then needs to be done for the end of the period, meaning that the latest order date for *exports* which took place during the POI needs to be determined. This order date will be the last day of the period in which export sales to Australia took place ("the export sale end date").

Accordingly, CSC has now revised its Australian sales spread sheet to include a column showing the order dates of exports in the POI.

C Second step – identify domestic sales in the same period as the export sales

The domestic sales process as explained at the verification involves CSC entering into formalised "main contracts". [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation]

CSC loads its price offer into its EDI system [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation]. The system generates price and quantity offers – the quantity based on historical levels – which are received into the customers interface with CSC's EDI system. On pressing accept a main contract is formed in accordance with the terms of the offer. This settles the price and the quantity for goods which are then targeted for invoicing and

delivery [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation]. This is a binding contract.

However, again we note that it does not identify the [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation] the EDI system generates a "Sales Order" and a "Subcontract" simultaneously confirming that the production is then to take place. The order is the date on which all variables are concluded and the sale is confirmed.

The subcontract is the document referred to as the "Sales Contract" in the sets of domestic sales documents provided to Customs. The respective orders are the documents referred to as "Sales Orders" in the documents provided to Customs. Note that the "Sales Contract" documents only show the date when the first "Sales Order" was generated – but the individual order dates are separately recorded in the EDI system.

Thus the second step of the analysis requires CSC to identify the domestic orders which were made in the period between the export sale start date and the export sale end date. This is the universe of sales for comparison and margin calculation purposes.

Accordingly, CSC has now included a column showing the order date in a further revised domestic sales spread sheet. Sales outside the range of the export sales have been shaded grey in the spread sheet.

D Rebates and "date of sale"

An issue which was raised at the verification was whether prices were changed after the main contract (now order date) was entered into, the implication being that the date of the domestic sales under a main contract (now order date) might not be the date of the sales because of the payment of that rebate.

There are two rebates which are relevant to this analysis:

- [CONFIDENTIAL TEXT DELETED – CSC policy re customer discounts and rebates]; and
- [CONFIDENTIAL TEXT DELETED – CSC policy re customer discounts and rebates].

In this regard we would submit that it has never been the case that [CONFIDENTIAL TEXT DELETED – CSC policy re customer discounts and rebates] dates of sale are not altered when sellers issue credit notes for one reason or other. These CSC rebates should not be treated any differently.

CSC's rebate practice is long standing, recognised and commercially important. It is known about by its customers at the time the main contract is entered into. The contract remains binding (ie no new contract is entered into when a rebate is paid). [CONFIDENTIAL TEXT DELETED – CSC policy re customer discounts and rebates]

CSC has reported its sales in the domestic sales spread sheet at their fully rebated price. By this we mean that in respect of the first category, the price reported has had the lump sum rebate allocated across all of the sales to which it applied. For the second category, the invoiced price is already the rebated price.

E Invoice date as "date of sale"

The verification team noted the default position of Customs, which is to use the invoice date as the date of sale. In this regard we would say that the invoice dates are not the dates of sale in any of the cases under consideration, whether for domestic or export sales. These invoices simply record what was contractually agreed at the time the order was made and accepted at the time of delivery, so that payment can be made.

As we have explained in this document, the order dates, which finally confirm [CONFIDENTIAL TEXT DELETED – CSC policy re process of commercial negotiation] are the dates of sale both in law, and as per Customs policy, which states as follows:

For such a claim to succeed [that the default position – invoice date – should not apply] it would first be necessary to demonstrate that the material terms of sale were, in fact, established by this other date. In doing so, the evidence would have to address whether price and quantity were subject to any continuing negotiation between the buyer and the seller after the claimed contract date.

The order date settles the material terms of the sale, and no continuing negotiation takes place after the order date. Radically altering dates of sales because of the rebates in this case would incorrectly skew the required analysis away from the commercial reality.

moulislegal

Daniel Moulis
Principal

Charles Zhan
Solicitor