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The Director  
Operations 5  
Anti-Dumping Commission  
Industry House  
Binara Street  
Canberra ACT 2601

## Public File

Dear Sir/Madam,

### Re Investigation No. 370 – Galvanised steel exported from India, Malaysia and Vietnam – Hoa Sen Group Exporter Verification Report

#### I. Introduction

BlueScope Steel Limited's ("BlueScope") has reviewed the Hoa Sen Group ("HSG") exporter verification report recently placed on the EPR. BlueScope submits that the Anti-Dumping Commission ("the Commission") has erred in its assessment of normal values under subsection 269TAC(1) of the *Customs Act* for HSG and has also omitted relevant adjustments under subsection 269TAC(8) for fair comparison purposes.

#### II. Normal Values

The Commission identified domestic sales by HSG in Vietnam at two distinct levels of trade – to subsidiaries and end-users. It is noted that the Commission was satisfied that sales to related party subsidiaries were for further processing – i.e. 'internal sales'. Sales to end-users were further categorised as domestic sales via branch networks and sales directly to end-users.

The Commission's verification team "*did not consider the data presented by HSG in the original domestic sales listing appropriate for calculating normal values*". This was due to the listing not identifying whether the sale was via a branch network or direct to end-users. The verification team requested HSG to "*provide a line-by-line listing of all domestic sales of galvanised steel made by its 15 largest branches to unrelated domestic customers in the domestic market*". From the revised listing of domestic sales provided by HSG the verification team identified HSG's largest branch (i.e. "Di An" branch) based on volume of sales. HSG confirmed that the Di An branch was also a 'warehouse facility' and that "*all galvanised steel sold from this branch would continue to meet the goods description as it entered the domestic market*".

The verification team determined "*that domestic sales of galvanised steel by the Di An branch were appropriate for calculating normal values*".

BlueScope respectfully disagrees with the verification team's determination that the domestic sales from HSG's Di An branch are appropriate for determining HSG's normal values.

Subsection 269TAC(1) requires the Minister to consider domestic sales of like goods sold in the ordinary course of trade for home consumption in the country of export. The limiting factors within subsection

269TAC(1) involve whether the like goods are sold in the ordinary course of trade – not the selection of certain domestic sales by a “branch” within the exporter’s network of operations. Whilst the verification team may not have been satisfied as to the level of disclosure by HSG in identifying domestic sales by branch or end-user as being adequate, it is not open to the Commission to selectively request a listing of domestic sales by one of HSG’s branches (including whether or not sales by that branch are the largest by volume within the HSG network of domestic sellers).

Subsection 269TAC(1) requires the Minister to examine all domestic sales of like goods by HSG. The subsection does not allow sales of like goods to be excluded from normal value consideration on the grounds that it is “appropriate” to only examine sales by the largest volume branch. All of HSG’s domestic sales of like goods – including to all 15 branches – must be considered by the Minister as to whether the sales have been made in the ordinary course of trade prior to discounting relevant sales from normal value consideration.

The methodology followed by the verification team to select domestic sales only of HSG’s largest branch network risks a weighting of normal values at the lower end of the pricing range. It is for this reason that subsection 269TAC(1) requires an exporter’s normal value determination be based upon a weighted average methodology for all domestic sales that meet the ordinary course of trade test. The practice of the Commission does not permit the *selection* of a handful of domestic sales of like goods by the exporter, however difficult it may be for the exporter to comply with the identification of information related to the level of trade for the domestic sales of like goods.

BlueScope submits that HSG’s normal value is correctly determined based upon on all domestic sales of like goods sold in the ordinary course of trade through HSG’s branches and direct end-use sales.

### III. Ordinary course of trade

BlueScope notes that the verification team identified sales to “subsidiaries” and to “end users”. The verification team examined whether the sales to the end-user were made in the ordinary course of trade. This examination, however, was limited to the selected domestic sales made through HSG’s Di An branch.

BlueScope submits that the verification team should have determined whether the cost of production associated with the sales of galvanised steel to subsidiaries was the same (prior to further value-adding) as that used for external sales. The HSG report is silent on this important verification requirement.

Following BlueScope’s submission above that HSG’s normal value assessment includes all domestic sales of like goods (not a selection), the correct ordinary course of trade test to be undertaken by the Commission involves all domestic sales of like goods (not just for a selection via the Di An branch).

### IV. Export sales to Australia

BlueScope notes that HSG’s export sales to Australia are not to a related party importer. The HSG verification report does identify export sales made to a customer that is “not based in Australia” with a third party consignee located in Australia. It would appear that the export sales via the party not located in Australia are not at the same level of trade as domestic sales made by HSG.

There is an absence of an upwards adjustment to HSG’s normal value to account for the role of the intermediary in the export sales to Australia via the intermediary.

## V. Due allowance adjustments

BlueScope observes there is an absence of an upwards adjustment for export credit associated with sales to Australia. The Commission has made a downward adjustment for domestic credit. The HSG verification report does not indicate that the credit adjustment for domestic sales is a “net credit adjustment”. At Section 3.2.1 of the HSG verification report reference is made to “*LC payment terms charges incurred by HSG*”.

HSG’s exporter verification report of 2015 indicated that some of HSG’s sales were on Telegraphic Transfer (“TT”) terms. BlueScope notes that credit is effectively extended on an export sale with TT terms where customer remittance is made progressively, or where mill terms dictate partial TT upfront, with the balance paid on delivery.

BlueScope would anticipate that an upwards export credit adjustment is warranted for some of HSG’s export sales (as a minimum).

## VI. Subsidies

BlueScope’s application for measures detailed information from the Government of Vietnam’s (“GoV”) WTO Notifications concerning benefits it provides to eligible companies in the form of preferential import tariff rates, reduced corporate tax rates, and incentives on non-agricultural land use activities. The Hoa Sen Group’s 2014-2015 Annual Report confirms that the company invested in a galvanizing line (scheduled completion May 2016) that would have qualified for benefits under the first two programs.

The HSG verification report indicates that the “*verification team found no evidence that HSG was in receipt of benefits under preferential tax programs*”. BlueScope is aware from Investigation No. 362 that the applicable programs have operated in Vietnam in the investigation period and that a large, rapidly expanding corporation such as HSG is eligible for the identified concessions. BlueScope does not consider that HSG’s non-declaration of any benefits received is reliable.

## VII. Conclusions

BlueScope submits that the Commission cannot be “*satisfied that the revised domestic sales listing is complete*” for HSG as it does not include all domestic sales of like goods by HSG that have been made in the ordinary course of trade during the investigation period.

It is further considered that the verification team has not validated whether the internal selling price for galvanised steel (used for further value-adding) aligns with the fully-absorbed cost for the like goods sold externally by HSG.

Finally, BlueScope submits that HSG’s normal value requires upwards adjustments for the role of an intermediary in select export sales, and for export credit extended on all export sales to Australia.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4240 1214, or BlueScope's representative Mr John O'Connor on (07) 3342 1921.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'C Uphill', written in a cursive style.

Chad Uphill  
Leader – Trade Affairs