

PUBLIC

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Mr John Bracic
Director, Operations 1
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Ave
Canberra ACT 2601

Dear John,

Re: Anti-Dumping investigation into HRC (Hot Rolled Coil) exported from Japan, The Republic of Korea, Malaysia, and Taiwan

I refer to your recent Statement of Essential Facts (SEF) number 188, in relation to the subject investigation.

In summary, our position is that in the clear absence of any causal linkage to material injury on exports from Japan over the investigation period and vide Section 269TDA(13), Japan needs to be terminated from the current investigation forthwith.

We also set forth below our further comments in relation to SEF Number 188 and suggested alternative solutions.

1. Cumulation of Exports

Section 269TAE(2C) of the Customs Act and Section 22 of the Customs Dumping and Subsidy Manual (August 2012), outlines certain criteria for the Minister to consider when attempting to cumulatively assess the effect of imports. Specifically, this decision is to be made in light of the conditions of competition between the imported goods themselves and between the imported goods and the domestically produced goods.

ATM submits that cumulation of exports for the assessment of causal link and material injury is **not** appropriate in the case of Hot Rolled Coil. ATM requests Customs and Border Protection Service (CBPS) reconsider its position outlined in SEF 188 on cumulative assessment of the causal link with material injury. ATM also notes in SEF 188, that CBPS indicated they were unable to take into account ATM's submission dated 26 September 2012, but that the submission would be taken into account in considering its Final Report.

Key drivers of ATM's conclusions on the inappropriateness of cumulative assessment of causal link/material injury are as follows:

- HRC supplied by [REDACTED] of Japanese exports into the Pipe/Tube sector) was at [REDACTED] to BlueScope's prices in the investigation period ([REDACTED]).
- CBPS themselves concluded that overall imported HRC prices into the Pipe and Tube market were at a premium to BlueScope prices.

- CBPS have also concluded that injury in the “small/medium” range of Pipe/RHS was a function of imported finished goods. It should be noted ~█% of RHS imports have exceeded 65x65 RHS (i.e. Largely outside the “small/medium” range). ATM is of the view that the prevalence of imported finished goods has been a significant factor across all tube products (including Structural Pipe and RHS) as evidenced by numerous plant closures over recent years.
- ATM is of the view that imported pipe and tube finished goods have impacted the complete range of products and █.
- No volumes of HRC from Malaysia or Taiwan were supplied to pipe and tube manufacturers in the investigation period (nor, OneSteel believes, during the last █)
- Zero or negligible volumes were supplied from Malaysia and Taiwan into the Automotive sectorwhere CBPS concluded no injury was suffered by BlueScope.
- Japanese HRC manufacturers supplied negligible volumes into the General Manufacturing sector in the investigation period.

It should be noted in BlueScope's original application, 3 market segments were cited (refer BlueScope Application A-4.2) as follows :

- Pipe and Tube
- Automotive
- Manufacturing

In SEF 188, CBPS substantiates its preliminary decision to cumulate, including the following rationale:

- *“Japan, Korea, Malaysia and Taiwan” all compete across multiple market sectors”*
- *“For example, both Japan and Korea supply the automotive and pipe and tube segments”*

ATM would consider this approach to be misconceived if it remains held by CBPS and makes the following observations in relation to this issue:

- ATM believes Malaysia and Taiwan have **only** supplied HRC into the manufacturing segment (directly and indirectly).
- In the automotive sector, CBPS have concluded that **no** causal link existed to any injury suffered by BlueScope
- In the Pipe and Tube sector:
 - CBPS found **no price undercutting**.....the root cause for establishing price depression, price suppression and lost profitability linked to imports.
 - CBPS found **no market share loss** by BlueScope.....the root cause for establishing volume loss and lost of profits linked to imports.
 - CBPS did find key segments where the injury was linked to imported finished goods.

As per our previous submissions (including that dated 26 September 2012), ATM is of the view that the dynamics of competition in HRC have varied significantly by segment and by country and as such, the questions of causation and material injury

in HRC should be drawn [REDACTED]. In ATM's view, cumulatively assessing the effect of imports in the case of HRC is not appropriate because it would undermine an accurate assessment of causal link and material injury in a market with the diversity of drivers identified.

In other words, to bundle Japanese exports into the overall import market of HRC, whereby other countries are contributing to factors that may conclude a causal link to injury, is erroneous and taints such goods that have not impacted on price suppression and price depression, two key factors that have lead to CBPS's view on causation and material injury. This conclusion is also supported by the following findings by CBPS in the SEF:-

Page 34 *"This market share chart shows that despite the contraction in the market, BlueScope maintained a steady market share, with a slight increase in 2011/12, at the expense of imports from sources other than (our emphasis) those named in the application. Exports from the nominated countries have also maintained a steady market share."*

Page 37 *"When examined on a product level, ie, the price of all imported HRC compared to all locally produced HRC, imports were priced 3% above industry's prices."*

Page 39 *"The pipe and tube sector is the largest market sector. Customs and Border Protection examined BlueScope's sales volumes into the pipe and tube sector and found that the volume of HRC sold increased in 2009/10, declined in 2010/11, and then increased slightly in 2011/12. However, these changes in sales volume largely follow the contraction and growth of the entire market. An assessment of BlueScope's market share shows that it has remained relatively constant. Its share declined slightly in 2010/11 but increased again in 2011/12"*

Page 40 *".....BlueScope's prices undercut imports of HRC in the pipe and tube sector by approximately 4%."*

Page 45 *"Customs and Border Protection has examined sales data in the automotive sector and found that BlueScope's sales were profitable. Furthermore, as sales in this industry are based on long term contract and price arrangements, BlueScope's claims to have suffered injury from 2010-11 due to dumped imports would appear to exclude this sector."*

Page 51 *"However, due to the impact of BlueScope's decision to close its export business, it is inconclusive whether employment, wages and return on investment have been impacted by dumped exports into the Australian market."*

Based on the foregoing findings, it is difficult to find any basis on how Japanese exports can be cumulated or commingled with other countries under consideration. In addition, it is also virtually impossible, when considering the impact of Japanese export volumes and prices to Australia over the investigating period on a stand alone basis, to find any linkage with the alleged material injury to BlueScope.

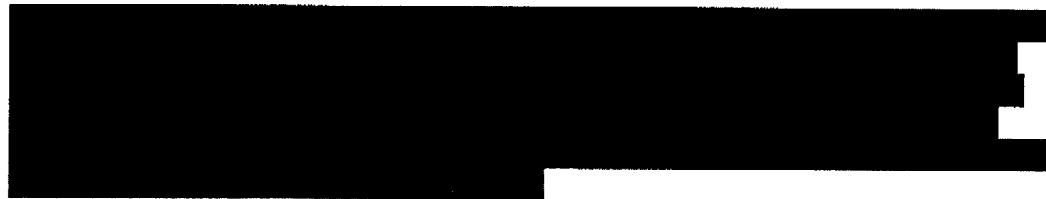
2. CBPS and Ministerial Assessment of the Downstream Industry Effects

Confidential Section containing details regarding the downstream competitive dynamics in the Pipe and Tube market and the need for the Minister to have regard to:

- A market where imported finished goods volumes exceed imported HRC volumes into the Pipe and Tube segment by a factor of over 10 times
- OneSteel closing 2 precision tube mills and a site at Kembla Grange
- OneSteel closing a large tube mill and site at Kembla Grange
- Orrcon/Hills Industries closing a large tube mill and site at Kembla Grange
- ATM mothballing 2 x tube mills at Newcastle and a galvanising plant at Acacia Ridge

3. Conclusion

Based on the absence of causation elements with this investigation and negligible injury from Japanese imports, we seek CBPS favourable consideration to terminate this investigation under Section 269TDA (13) of the Customs Act in respect of Japan.



We look forward to receiving your feedback when convenient and we would like to arrange a meeting in the near future to discuss our submission in further detail.