



Australian Government  
Department of Industry,  
Innovation and Science

Anti-Dumping  
Commission

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*CUSTOMS ACT 1901 - PART XVB*

## **Final Report NO. 370**

**ALLEGED DUMPING OF ZINC COATED (GALVANISED)  
STEEL EXPORTED TO AUSTRALIA FROM THE  
REPUBLIC OF INDIA (INDIA), MALAYSIA AND THE  
SOCIALIST REPUBLIC OF VIETNAM (VIETNAM)**

**AND**

**THE ALLEGED SUBSIDISATION OF GALVANISED  
STEEL EXPORTED TO AUSTRALIA FROM INDIA AND  
VIETNAM**

July 2017

REP 370 - Galvanised Steel – India, Malaysia and Vietnam

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## ABBREVIATIONS

AUD	Australian dollars
ABF	Australian Boarder Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
BlueScope	BlueScope Steel Limited
BMT	Base metal thickness
China	the People's Republic of China
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
CSCM	CSC Steel Sdn Bhd
CSVC	China Steel Sumikin Vietnam Joint Stock Company
CTM	Cost to make
CTMS	Cost to make and sell
CTS	Cost to sell
EPR	Electronic public record
Essar Steel	Essar Steel India Ltd
FIS	Free into store
FIW	FIW Steel Sdn Bhd
FOB	Free on board
the goods	the goods the subject of the application (also referred to as the goods under consideration)
Hoa Sen	Hoa Sen Group
HRC	Hot rolled coil
the investigation period	1 July 2015 to 30 June 2016
India	The Republic of India
IPP	Import parity price
JSWSL	JSW Steel Limited
JSWC	JSW Steel Coated Products Limited
JSW Group	Collectively: JSW Steel Coated Products Limited; and JSW Steel Limited
Nam Kim	Nam Kim Steel Joint Stock Company
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry and Science
REP 190	Final Report No. 190
REP 193	Final Report No. 193
SEF	Statement of essential facts
Vietnam	the Socialist Republic of Vietnam

## 1. SUMMARY AND RECOMMENDATIONS

### 1.1 Introduction

This Report number 370 (REP 370) relates to an investigation (No. 370) by the Commissioner of the Anti-Dumping Commission (the Commissioner) of the allegations made by BlueScope Steel Limited (BlueScope) that certain zinc coated (galvanised) steel<sup>1</sup> exported to Australia from the Republic of India (India), Malaysia and the Socialist Republic of Vietnam (Vietnam) at dumped prices and from India and Vietnam at subsidised prices has caused material injury to the Australian industry producing like goods.

This report makes recommendations to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)<sup>2</sup> and sets out the facts on which the Commissioner bases those recommendations. The Parliamentary Secretary exercises the functions and powers of the Minister under Part XVB of the *Customs Act 1901* (the Act).<sup>3</sup>

### 1.2 Recommendation to the Parliamentary Secretary

Based on the findings in this Report, the Commissioner recommends to the Parliamentary Secretary that:

- a dumping duty notice be published in respect of galvanised steel exported to Australia from India, Malaysia and Vietnam except for exports by Hoa Sen Group and Nam Kim Steel Joint Stock Company from Vietnam; and
- a countervailing duty notice be published in respect of all galvanised steel exported to Australia from India.

### 1.3 Application of law to facts

#### 1.3.1 Authority to make decision

Division 2 of Part XVB of the Act describes, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Parliamentary Secretary.

Section 269TDA describes the reasons upon which the Commissioner must terminate an investigation.

#### 1.3.2 Application

On 15 August 2016, BlueScope lodged an application alleging that the Australian industry has suffered material injury caused by exports of galvanised steel to Australia from India,

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<sup>1</sup> Refer to the full description of the goods in Section 3.2.1 of this report.

<sup>2</sup> On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this investigation the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

<sup>3</sup> Unless otherwise specified all legislative references are to the *Customs Act 1901*.

Malaysia and Vietnam at dumped prices and from India and Vietnam at subsidised prices. BlueScope alleges that the industry has been injured through:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced employment;
- reduced capacity utilization;
- reduced return on investment; and
- reduced investment.

The Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of galvanised steel from India, Malaysia and Vietnam and alleged subsidisation of galvanised steel from India and Vietnam on 7 October 2016.

Anti-Dumping Notice (ADN) No. 2016/105 provides further details relating to the initiation of the investigation and is available on the Anti-Dumping Commission's (the Commission's) website.<sup>4</sup>

In respect of the investigation:

- the investigation period<sup>5</sup> for the purpose of assessing dumping is from 1 July 2015 to 30 June 2016; and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped and subsidised goods is from 1 July 2012.

### **1.3.3 Day 60 Status Report and Preliminary affirmative determination**

In accordance with subsection 269TD(1), the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation and the Commonwealth may require and take securities at the time a PAD is made, or at any time during the investigation after a PAD has been made, if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In accordance with section 6 of the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), the Commissioner published a Day 60 Status Report on 6 December March 2016, being 60 days after the initiation of the investigation, providing reasons why a PAD was not made.

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<sup>4</sup> [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>5</sup> Subsection 269T(1).

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Section 9 of the PAD Direction requires the Commissioner to reconsider making a PAD after the publication of a Day 60 Status Report at least once prior to the publication of the statement of essential facts (SEF). On 31 May 2017, the Commissioner was satisfied that there appeared to be sufficient grounds for the publication of;

- a dumping duty notice in relation to exports of the goods from India, Malaysia and Vietnam;<sup>6</sup> and
- a countervailing duty notice in relation to exports of the goods from India

and made a PAD to that effect.

Following the making of the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any:

- interim dumping duty in respect of the goods exported from India, Malaysia and Vietnam; and
- interim countervailing duty for the goods exported from India

that may become payable in respect of the goods entered for home consumption in Australia on or after 1 June 2017.

ADN No.2017/81<sup>7</sup> contains more information on the Commissioner's reasons for making a PAD.

### 1.3.4 Statement of Essential Facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as allowed under subsection 269ZHI(3),<sup>8</sup> place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary in relation to the application.<sup>9</sup>

The Commissioner placed SEF 370<sup>10</sup> on the public record on 31 May 2017.

### 1.3.5 Terminations

On 17 July 2017, the Commissioner terminated the:

- (a) dumping investigation in so far as it relates to galvanised steel exported by:
  - Hoa Sen Group (Hoa Sen) from Vietnam; and
  - Nam Kim Steel Joint Stock Company (Nam Kim) from Vietnam
- (b) subsidy investigation so far as it relates to all galvanised steel exported from Vietnam.

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<sup>6</sup> Except for the goods exported by Hoa Sen Group and Nam Kim Steel Joint Stock Company.

<sup>7</sup> <http://www.adcommission.gov.au/cases>.

<sup>8</sup> On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

<sup>9</sup> Subsection 269TDAA(1).

<sup>10</sup> Available at [www.adcommission.gov.au](http://www.adcommission.gov.au).



Termination Report No. 370 (TER 370) sets out the reasons for these terminations and is available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **1.3.6 Report 370**

This Report and the recommendations in relation to this investigation must be provided to the Parliamentary Secretary on or before 17 June 2017<sup>11</sup> unless the investigation is terminated earlier or an extension of time to provide the final report is granted.

In making the recommendations in this Report the Commissioner had regard to:

- the application;
- all submissions concerning, and subsequent to, the publication of ADN 2016/105 to which the Commissioner had regard for the purpose of formulating SEF 370;
- SEF 370, submissions in response to the SEF and information obtained during the course of verification visits to the Australian industry, exporters, importers and end-users; and
- a submission by BlueScope in response to submissions to the SEF received by the Commission on 27 June 2017.<sup>12</sup>

This Report includes a statement of the Commissioner's reasons for the recommendations in this Report.<sup>13</sup> The statement of the Commissioner's reasons:

- sets out the material findings of fact on which the recommendations are based; and
- provides particulars of the evidence relied on to support those findings.

## **1.4 Findings and Conclusions**

### **1.4.1 The goods and like goods (Chapter 3 of this report)**

The Commissioner considers that locally produced galvanised steel are like goods to the goods the subject of the applications (the goods).

### **1.4.2 Australian industry (Chapter 4 of this report)**

The Commissioner has found that there is an Australian industry producing like goods to the goods the subject of the investigations and these like goods are wholly manufactured in Australia by BlueScope.

### **1.4.3 Australian Market (Chapter 5 of this report)**

The Australian market for galvanised steel is supplied by locally produced and imported goods.

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<sup>11</sup> 15 July 2017 falls on Saturday, therefore the Final report and recommendations will be provided to the Parliamentary Secretary on Monday 17 July 2017.

<sup>12</sup> In accordance with subsection 269TEA(3).

<sup>13</sup> In accordance with subsection 269TEA(5).

#### **1.4.4 Dumping (Chapter 6 of this report)**

The Commissioner considers that:

- galvanised steel exported to Australia from India, Malaysia and Vietnam during the investigation period was dumped except by Hoa Sen and Nam Kim; and
- the volume of dumped goods from these countries, and the dumping margins for all exporters (except by Hoa Sen and Nam Kim) were not negligible.

The Commissioner's assessment of dumping margins for galvanised steel exported from India, Malaysia and Vietnam is at table 1 below:

<b>Country</b>	<b>Exporter/Manufacturer</b>	<b>Dumping margin</b>
India	JSW Group - JSW Steel Limited and JSW Steel Coated Products Limited	9.0%
	Essar Steel India Limited	7.6%
	Uncooperative and all other exporters	12.0%
Malaysia	CSC Steel Sdn Bhd	14.5%
	FIW Steel Sdn Bhd	16.5%
	Uncooperative and all other exporters	16.5%
Vietnam	China Steel Sumikin Vietnam Joint Stock Company	8.4%
	Uncooperative and all other exporters	14.2%
	Hoa Sen Group	<2%
	Nam Kim Steel Joint Stock Company	<2%

**Table 1: Summary of dumping margin**

#### **1.4.5 Subsidy – (Chapter 7 of this report)**

The Commissioner considers that:

- galvanised steel exported to Australia from India during the investigation period was subsidised; and
- the volume of subsidised goods from India and the amount of subsidisation was not negligible.

The Commission's assessment of subsidy margins for galvanised steel exported from India is at table 2 below:

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Country	Exporter/Manufacturer	Subsidy margin
India	JSW Group	5.0%
	Essar Steel India Limited <sup>14</sup>	3.6%
	Uncooperative and all other exporters	5.9%

**Table 2: Summary of subsidy margin**

### **1.4.6 Economic Condition of the Industry (Chapter 8 of this report)**

The Commissioner considers that the Australian industry has experienced injury in the forms of:

- price depression;
- price suppression;
- reduced profit and profitability;
- reduced capital expenditure and
- reduced employment

### **1.4.7 Causation assessment (Chapter 9 of this report)**

The Commissioner considers that the Australian industry suffered material injury as a result of exports of galvanised steel at dumped and subsidised prices from India and dumped prices from Malaysia and Vietnam.

### **1.4.8 Will dumping and material injury continue? (Chapter 10 of this report)**

The Commissioner considers that exports of galvanised steel may continue in the future at dumped and subsidised prices from India and dumped prices from Malaysia and Vietnam, and that continued dumping and subsidisation from these countries may continue to cause material injury to the Australian industry.

### **1.4.9 Non-injurious price (Chapter 11 of this report)**

The Commissioner considers that the non-injurious price can be established by reference to a constructed price which reflects an undumped and unsubsidised import price parity.

### **1.4.10 Proposed measures (Chapter 12 of this report)**

The Commissioner recommends to the Parliamentary Secretary that anti-dumping measures (in the form of a dumping duty notice for India, Malaysia and Vietnam and a countervailing duty notice for India) be imposed using:

- a combination of fixed and variable duty method in relation to the subsidisation; and

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<sup>14</sup> Essar Steel only participated in the dumping investigation, the Commission used Essar Steel Export price from that part of investigation to calculate its dumping margin.

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- a combination of fixed and variable duty method in relation to the dumping, minus an amount for the subsidy rate applying to export subsidy programs (where this has been received by the exporter or group of exporters).

### **1.4.11 Recommendations to the Parliamentary Secretary (Chapter 13)**

The Commissioner makes the recommendations contained in Chapter 13 of this Report to the Parliamentary Secretary.

## 2. BACKGROUND

### 2.1 Initiation

On 15 August 2016, BlueScope lodged an application for the publication of a dumping duty notice in respect of galvanised steel exported to Australia from India, Malaysia and Vietnam, and a countervailing duty notice in respect of galvanised steel exported from India and Vietnam (collectively referred to as the nominated countries).

Subsequent to receiving further information and data from BlueScope on 29 August, 2 September, 5 September, 14 September and 4 October 2016 and having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping and subsidisation of galvanised steel on 7 October 2016. Public notification of initiation of the investigation was also made on 7 October 2016 and is available on the Commission's website.<sup>15</sup>

ADN No. 2016/105 provides further details relating to the initiation of the investigation.

### 2.2 Previous investigations, Reviews and Inquiries

On 30 April 2013, an investigation into the alleged dumping of galvanised steel exported to Australia from the People's Republic of China (China), Korea and Taiwan was finalised (Trade Measures Report No. 190 refers) (REP 190)<sup>16</sup>. As a result of that investigation, a dumping duty notice was published for all exports of galvanised steel from:

- China, by all exporters;
- Korea, by all exporters, other than Union Steel Co., Ltd;<sup>17</sup> and
- Taiwan, by all exporters, other than Sheng Yu Co., Ltd and Ta Fong Steel Co., Ltd.<sup>18</sup>

On 28 June 2013, an investigation into the alleged subsidisation of galvanised steel exported to Australia from China was finalised (Trade Measures Report No. 193 refers) (REP 193).<sup>19</sup> As a result of that investigation, a countervailing duty notice was published for all exports of galvanised steel from China by all exporters other than Angang Steel Company Limited (ANSTEEL)<sup>20</sup> and ANSC TKS Galvanising Co., Ltd. On 11 September 2013, the Anti-Dumping Review Panel (ADRP) revoked the decision to terminate the investigation as it related to ANSTEEL, with the effect that the investigation was resumed.

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<sup>15</sup> [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>16</sup> It is noted that the goods in REP 190 were determined to be zinc coated products of iron and non-alloy steel only.

<sup>17</sup> On 26 April 2013, the dumping investigation was terminated, in so far as it related to galvanised steel exported by Union Steel Co., Ltd, Sheng Yu Co., Ltd and Ta Fong Steel Co., Ltd. This decision was based on the finding that the dumping margins for goods exported by those companies during the investigation period were less than 2% (refer Termination Report No. 190A).

<sup>18</sup> See above.

<sup>19</sup> It is noted that the goods in REP 193 were determined to be zinc coated products of iron and non-alloy steel only.

<sup>20</sup> On 17 June 2013, the countervailing investigation was terminated, in so far as it related to galvanised steel exported by ANSTEEL and ANSC TKS Galvanising Co., Ltd, on the basis that the countervailable subsidisation was negligible in regards to these exporters (refer Termination Report No. 193(i)).

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After resuming the investigation, the Commissioner subsequently decided to terminate the investigation in relation to ANSTEEL.

On 30 July 2015, the Commissioner terminated an investigation into the alleged dumping of galvanised steel from India and Vietnam on the basis that the volume of dumped exports from Vietnam was negligible and that negligible injury was caused to the Australian industry by the dumped goods from India. Further details of this investigation can be found in TER 249, which is available on the Commission's website.

On 17 March 2016, the then Parliamentary Secretary accepted the Commissioner's recommendation in relation to an anti-circumvention inquiry into the slight modification of zinc coated (galvanised) steel exported to Australia from China, Korea and Taiwan and on 18 March 2016, the anti-dumping measures applying to China, Korea and Taiwan were amended to include 'alloyed' steel goods exported by certain exporters from China, Korea and Taiwan (ADN 2016/23 refers).

On 12 May 2017, the Parliamentary Secretary accepted the Commissioner's recommendation in relation to the review of measures against six single exporters for the goods exported from China and Taiwan. The Commissioner recommended that the dumping duty notice in respect of galvanised steel have effect as if different variable factors for the 6 exporters had been ascertained (ADN 2017/49 and REP 365 refers).

### **2.3 Statement of essential facts**

SEF 370 was placed on the public record on 31 May 2017. The SEF set out the facts on which the Commissioner proposed to base a recommendation to the Parliamentary Secretary. The SEF informed interested parties of the facts established at that point in the investigation and afforded interested parties the opportunity to make submissions in response.

Following its publication on the public record, interested parties had 20 days to respond to the SEF. Responses to SEF 370 were due on or before 20 June 2017.

The Commissioner has considered all submissions received in response to the SEF in making this report and recommendations to the Parliamentary Secretary.

### **2.4 Submissions received from interested parties**

The Commission has received numerous submissions from interested parties during the course of the investigation.

Each submission has been considered by the Commissioner in making this Report and recommendations to the Parliamentary Secretary. All submissions received are listed in **Non-Confidential Attachment 1** to this report.

### **2.5 Public record**

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The public record is available for inspection in hard copy by request in

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Canberra or online at [www.adcommission.gov.au](http://www.adcommission.gov.au). Documents on the public record should be read in conjunction with this Report.

### 3. THE GOODS AND LIKE GOODS

#### 3.1 Finding

The Commissioner considers that locally produced galvanised steel by BlueScope is like to the goods under investigation.

#### 3.2 Legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG and a countervailing duty notice under section 269 TJ of the Act.

Under sections 269TG and 269TJ, one of the matters the Parliamentary Secretary must be satisfied of is that there is an Australian industry producing like goods to the goods the subject of the application.

Subsection 269T(1) defines like goods as:

*“Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.*

An Australian industry can apply for relief from material injury caused by dumped and subsidised imports even if the goods it produces are not identical to those imported. However, the Australian industry must produce goods that are ‘like’ to the imported goods.

The *Dumping and Subsidy Manual* (the Manual)<sup>21</sup> outlines certain “likeness tests” which provide a framework for assessing whether the goods manufactured by BlueScope are like to the imported goods. Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

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<sup>21</sup> Copy available at [www.adcommisison.gov.au](http://www.adcommisison.gov.au).



### 3.3 The goods

#### 3.3.1 Description

The goods the subject of the application are:

*‘flat rolled iron or steel products (whether or not containing alloys) that are plated or coated with zinc.*

These goods are also generically described as galvanised steel. Galvanised steel of any width is included in this application.

#### Exclusions

The goods do not include painted galvanised steel, pre-painted galvanised steel, electro-galvanised steel, corrugated galvanised steel or aluminium zinc alloy coated or plated steel.

#### 3.3.2 Additional information

BlueScope’s application also provided additional information to support its description of the goods, as follows:

*The goods include the same categories of goods as identified in Trade Measures Report No. 190 and 193, however, this application also includes goods that are alloyed (i.e. with minor additions, e.g. boron, chromium, etc). The goods the subject of this application include all zinc coated product options, including all grades/models of zinc coated steel, all coating mass classes and all surface treatments.*

*Trade or further generic names often used to describe the goods the subject of the application include:*

- *“GALVABOND®” steel*
- *“ZINCFORM®” steel*
- *“GALVASPAN®” steel*
- *“ZINCHITEN®” steel*
- *“ZINCANNEAL” steel*
- *“ZINCSEAL” steel*
- *Galv*
- *GI*
- *Hot Dip Zinc coated steel*
- *Hot Dip Zinc/Iron alloy coated steel*
- *Galvanneal*

*The amount of zinc coating on the steel is described as its coating mass and is nominated in grams per meter squared (g/m<sup>2</sup>) with the prefix being Z (Zinc) or ZF (Zinc converted to a Zinc/Iron alloy coating). The common coating masses used for zinc coating are: Z350, Z275, Z200/Z180, Z100, and for zinc/iron alloy coatings are ZF100, ZF80 and ZF30 or equivalents based on international standards and naming conventions.*

## PUBLIC RECORD

*Surface treatments can include but not be limited to; passivated or not passivated (often referred to as chromated or unchromated), oiled or not oiled, skin passed or not skin passed, phosphated or not phosphated (for zinc iron alloy coated steel only).*

*There are a number of relevant International Standards for zinc coated products that cover their own range of products via specific grade designations, including the recommended or guaranteed properties of each of these product grades.*

*These relevant standards are noted below in Table 3 “Relevant International Standards for zinc coated steel”.*

International Standards	Product Grade Names
<b>General and Commercial Grades</b>	
AS/NZS 1397	G1, G2
ASTM A 653/A 653M	CS type A, B and C
EN10346	DX51D, DX52D
JIS 3302	SGCC, SGHC
<b>Forming, Pressing &amp; Drawing Grades</b>	
AS/NZS 1397	G3
ASTM A 653/A 653M	FS, DS type A and B
EN10346	DX53D, DX54D
JIS 3302	SGCD, SGCD, SGDD
<b>Structural Grades</b>	
AS/NZS 1397	G250, G300, G350, G450, G500, G550
ASTM A 653/A 653M	33 (230), 37 (255), 40 (275), 50 (340), 55 (380), 80 (550)
EN10346	S220GD, S250GD, S280GD, S320GD, S350GD, S550GD
JIS 3302	SGC340, SGC400, SGC440, SGC490, SGC570 SGH340, SGH400, SGH440, SGH490, SGH570

**Table 3 - Relevant International Standards for zinc coated steel**

### 3.4 Tariff classification

BlueScope’s application states that galvanised steel is classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7210.49.00 (statistical codes 55, 56, 57 and 58);
- 7212.30.00 (statistical code 61);
- 7225.92.00 (statistical code 38); and
- 7226.99.00 (statistical code 71).

The Trade Policy and Advice division of Australian Border Force (ABF) has confirmed that galvanised steel is correctly classified to these tariff subheadings. The Commission notes that the goods are defined by the description, not the tariff classification.

The general rate of duty is currently 5% for goods imported under these tariff subheadings. However, imports from India, Malaysia and Vietnam are subject to a DCS<sup>22</sup>

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<sup>22</sup> ‘DCS’ is a code applied to classes of countries and places in relation to which special rates apply as specified in Part 4 of Schedule 1 to the *Customs Tariff Act 1995*.

duty rate which is 0% for non-alloy steel under 7210.49.00 and 7212.30.00 and is 4% for 'other alloy' steel under 7225.92.00 and 7226.99.00.

The Commission notes there are numerous tariff concession orders applicable to the relevant tariff subheadings.

### **3.5 Like goods assessment**

BlueScope manufactures galvanised steel in a range of widths, grades, base metal thicknesses (BMTs),<sup>23</sup> zinc coatings and finishes.

Based on the information currently before it, the Commissioner has assessed the following in relation to galvanised steel:

- (i) *Physical likeness*
  - products made locally by BlueScope have a physical likeness to the goods exported to Australia from India, Malaysia and Vietnam;
  - BlueScope's locally produced galvanised steel and the imported goods are both manufactured to Australian and International Standards;
- (ii) *Commercial likeness*
  - Australian industry galvanised steel competes directly with imported galvanised steel in the Australian market;
  - the locally produced goods and imported goods are offered for sale to the market via similar channels, and on similar commercial terms and conditions;
- (iii) *Functional likeness*
  - the locally produced and imported galvanised steel have comparable or identical end-uses; and
- (iv) *Production likeness*
  - the locally produced and imported galvanised steel are manufactured in a similar manner and via similar production processes.

### **3.6 Submissions – Pre SEF**

#### **3.6.1 Aluminium zinc coated products**

The Commissioner has received two submissions, namely from Hoa Sen and from Essar Steel, claiming that the aluminium zinc coated products 'Alzinc' and 'Zincalume' should be included in the definition of the goods under consideration (i.e. zinc coated (galvanised) steel). Hoa Sen and Essar Steel claim that 'alzinc' products are similar to galvanised steel and are being increasingly substituted for galvanised steel products in Australia. These exporters also claim that 'alzinc' products are promoted for 'dual use' by the applicant

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<sup>23</sup> BMT refers to the thickness of the base steel (substrate). Total coated thickness refers to the steel base thickness plus the metallic coating thickness. References to thicknesses in this report are to the BMT.

BlueScope and that BlueScope retails both of these products at the same prices. These exporters, also stated in their submissions that BlueScope has included in its application that 'alzinc' are substitutes for the goods under consideration.<sup>24</sup> Hoa Sen and Essar Steel's public record version of their submissions are on the Commission's website.

### **3.6.2 Australian Industry's submission**

BlueScope responded to the above submissions claiming that domestic sales volume of aluminium zinc coated products have been steady in the last three years, while galvanised steel volume has increased, indicating that each of the above goods have their own demand dynamics and are not 'entirely' substitutable. BlueScope's public record version of the submission is on the Commission's website.

### **3.6.3 The Commissioner's assessment**

The Commission considers that aluminium zinc coated products have different commercial, functional and production likeness to galvanised steel.

The Commissioner has found no evidence available to suggest that aluminium zinc coated products are 'like goods' to the goods subject to this investigation.

## **3.7 Findings - Like goods**

Having regard to the above, the Commissioner considers that BlueScope's locally produced galvanised steel is like to the imported goods, and possesses the same essential characteristics as the imported galvanised steel.

Although BlueScope does not manufacture galvanised steel containing alloys, in March 2017 an anti-circumvention inquiry found that alloy zinc coated products are substitutable with iron and non-alloy zinc coated steel products (ADN 2016/23 refers).

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<sup>24</sup> Page. 20 of BlueScope's application refers.

## **4. THE AUSTRALIAN INDUSTRY**

### **4.1 Finding**

The Commissioner has found that there is an Australian industry consisting of BlueScope that produces like goods in Australia and the like goods are wholly manufactured in Australia.

From the available information, the Commission has identified that BlueScope is the sole Australian producer of 'like goods', and is therefore referred to in this report as the Australian industry.

### **4.2 Legislative framework**

The Commissioner must be satisfied that the like goods are produced in Australia. Subsection 269T(2) of the Act specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Subsection 269T(3) provides that in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

### **4.3 Australian industry**

The applicant, BlueScope, is a publicly listed company, limited by shares. It has a number of subsidiaries and joint ventures both in Australia and overseas. BlueScope's operations comprise a number of distinct operations or businesses viz. Australian Steel Products, BlueScope Building Products, New Zealand and Pacific Steel Products, North Star BlueScope (US Operation) and Building Products Group with operations in ASEAN, North America and India.

BlueScope's application stated that it is currently the sole manufacturer of galvanised steel in Australia. The Commission's enquiries have not identified any other manufacturers of galvanised steel in Australia.

### **4.4 Production processes**

On November 2016, the Commission undertook a visit to BlueScope's manufacturing facilities in Port Kembla, New South Wales. The Commission observed BlueScope's production process of galvanised steel as detailed below.

### **4.5 Hot rolled coil**

Hot rolled coils (HRC) form the primary raw material input for galvanised steel. For all producers of HRC and other steel in general, the main raw materials used in the production of such goods are iron ore, coking coal, coke and limestone. The raw materials are fed into the top of the blast furnace in predetermined proportions and sequences. Air that has been heated to around 1200°C is blown into the furnace through nozzles at the lower part of the furnace. This causes the coke to burn, producing carbon monoxide that creates the required chemical reaction. The iron ore is reduced to molten

iron by removing the oxygen. Molten iron and slag is drained every two hours through the taphole of the furnace and the molten iron is transported in a torpedo ladle to the basic oxygen steelmaking (BOS) area.

The BOS process creates liquid steel from molten iron, scrap steel and alloying materials. Pure oxygen is blown onto the steel and iron, causing the temperature to rise and thereby melts the scrap, lowers the carbon content of the molten iron and removes unwanted impurities. The steel can be further refined by adding alloy materials that give the steel specific properties required by the customer. It is noted that structural steel properties can be achieved via alloy addition; however, BlueScope utilises its processing technology to achieve the required structural properties with low carbon steel.

The molten steel is cast into slabs of various dimensions so that it can be rolled. The rate of casting and speed is dependent on the grade and width being cast. Spray cooling of the slab aids solidification.

After entering the hot strip mill, the slab is reheated to around 1250°C, descaled and rough rolled to a thickness of 25mm. It is then coiled in a coil box to retain heat, before passing through a set of rolling mill stands to a finished roll according to customer order thickness. The product is control cooled before being finally wound up as a coil of steel, known as hot rolled coil. The HRC is then transferred to the Springhill and Western Port coating mills.

## **4.6 Coated steel**

### Pickling

HRC is pickled to remove scale (iron oxide) that is formed during the hot rolling process. The HRC is unwound, side trimmed to the customer's required width and passed through a bath of hydrochloric acid, washed, dried and recoiled. Oil is applied during rewinding to prevent rust.

### Cold rolling

The pickled HRC is cold rolled to reduce the steel thickness. The cold rolling process (which involves passing the pickled HRC through a number of rolling mill stands) is conducted at ambient temperature and reduces the HRC to the required customer thickness (0.3mm to 3.5mm). As a result of this process, the steel strength increases and the surface finish becomes bright and smooth. This intermediate steel product is known as a 'cold rolled fully hard' product.

### Metal coating

The cold rolled coil is uncoiled and annealed to restore the steel to a soft, usable, ductile form. The coil then passes from the furnace through a molten zinc metal bath where the molten metal chemically bonds to the steel surface. As the coil is vertically withdrawn from the bath, air jets control the resulting coating mass.

### Finishes

Those products to be skin-passed undergo light rolling through a skin conditioning mill. This increases the length by 0.25% to 1.25%, which improves the surface of the strip by suppressing (i.e. squashing) spangles and surface defects, to produce a smooth surface for painting, and to suppress or eliminate the yield point.

Galvanised steel is generally supplied with a surface passivation treatment (chromating) that provides a measure of protection for the steel against wet storage damage while in transit to the customer or whilst on-site.

#### Further processing

BlueScope's service centres are capable of undertaking further processing, such as sheeting, slitting and blanking. BlueScope advised that all orders for galvanised steel less than 600mm in width will be slit, rather than sending narrow coils through the production line individually.

### **4.7 Findings**

Following the Commission's verification of BlueScope's manufacturing processes in Port Kembla, New South Wales, as well as visits to importers of galvanised steel, the Commissioner is satisfied that galvanised steel is wholly manufactured by BlueScope in Australia.

Accordingly, the Commissioner is satisfied, in accordance with subsections 269T(2) and 269T(4), that there is an Australian industry producing galvanised steel in Australia and that this industry solely consists of BlueScope.

## 5. AUSTRALIAN MARKET

### 5.1 Finding

The Commissioner finds that the Australian market for galvanised steel is supplied by the Australian industry and imports, predominantly from China, India, Japan, Korea, Malaysia, Taiwan and Vietnam.<sup>25</sup> The Commission estimates that the size of the Australian market during the investigation period was approximately 700,000 tonnes.

### 5.2 Market structure

The Australian galvanised steel market is primarily served by the sole domestic producer, BlueScope. During the investigation period BlueScope's domestic sales accounted for approximately seventy five percent of the total estimated Australian galvanised steel market. The remainder of the market needs were met by imports from China, India, Japan, Korea, Malaysia, Taiwan, Vietnam and other countries. Anti-dumping measures currently apply to the goods exported from China, Korea and Taiwan.

#### 5.2.1 Australian Industry

The Commissioner notes that Australian industry supplies galvanised steel into five different market sectors. These sectors are as follows:

- i. Building
- ii. Distribution
- iii. Manufacturing
- iv. Pipe and Tube
- v. Automobile

During the investigation period, the galvanised steel market in Australia was primarily driven by the building and distribution sectors (the two largest sectors by volume).

Galvanised steel is supplied to these five different sectors directly from the mills either in Australia or overseas or can be supplied via a distributor or importer/wholesaler. Galvanised steel is an intermediate good and downstream industries typically undertake further processing on the goods. Some distributors and importers, also perform further processing of the goods.<sup>26</sup>

#### 5.2.2 Importers

Following initiation of the investigation, the Commission examined the ABF's import database and identified around 23 potential importers of galvanised steel from India, Malaysia and Vietnam.

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<sup>25</sup> Based on ABF's import data for the investigation period.

<sup>26</sup> Further processing includes slitting, cutting galvanised steel to specific lengths etc.



The Commission sought the cooperation of the five largest importers (by volume) through the completion of an importer questionnaire. Four of those importers fully cooperated with the request, and verification activities were undertaken. These importers are as follows:

- Cedex Steel and Metals Pty Ltd;
- Commercial Metals Pty. Ltd.;
- Mitsubishi Australia Ltd; and
- Stemcor Australia Pty Ltd.<sup>27</sup>

The Commissioner estimates that the above importers collectively account for approximately 70% of total imports from Vietnam, 98% from Malaysia and 15% from India during the investigation period. The Commission was unable to capture a higher volume from India as major importers who sourced the goods from India during the investigation period did not cooperate in this investigation.

### **5.3 Market size**

To estimate the size of the Australian galvanised steel market, the Commission has combined BlueScope's verified sales data<sup>28</sup> with information from the ABF import database.

Whilst the ABF import database cannot be filtered by product finish (i.e. whether the galvanised steel was painted or unpainted), the Commission has cleansed the ABF import data by reference to the description of the goods provided. The ability to distinguish the goods on the basis of finish is of significance as only the non-pre-painted galvanised steels are 'the goods' for this investigation. The Commission has also cross checked this data during the verification of major importers. As a result, the Commission considers the cleansed ABF import data to be a reasonable estimate of import volumes.

The following graph depicts the Commission's estimate of the Australian market size for galvanised steel for the period 2013 to 2016 financial years (FY's). In particular, the Commission estimates that the size of the Australian market for galvanised steel is approximately 700,000 tonnes in the financial year 2016.

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<sup>27</sup> Copies of these verification reports are available at EPR 370/025, 049, 052 and 057.

<sup>28</sup> As outlined in the relevant verification report, this sales data was found to be complete, relevant and accurate; EPR 370/055 refers.

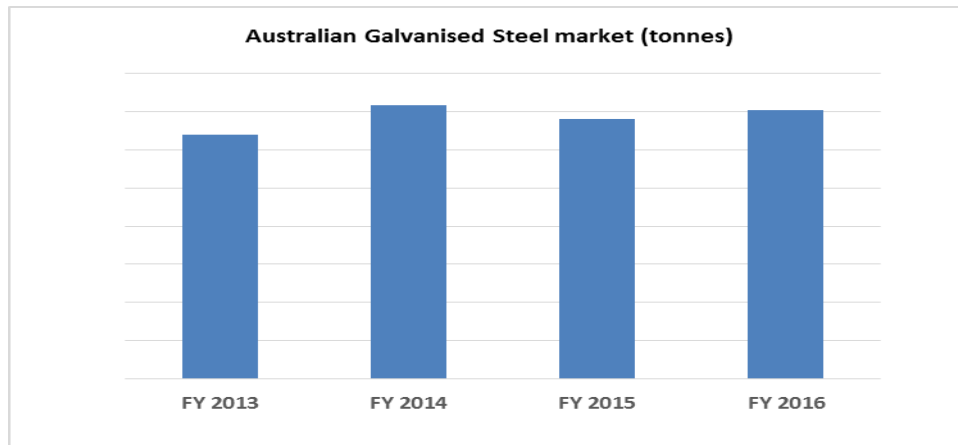


Figure 1 – Australian market for galvanised steel

Data supporting the Commission’s assessment of the Australian market size for galvanised steel is at **Confidential Appendix 1**.

Figure 1 above shows that the total Australian market size for galvanised steel during the investigation period has increased by around 10% since FY2013, although the total market size remained slightly below FY2014 market size levels.

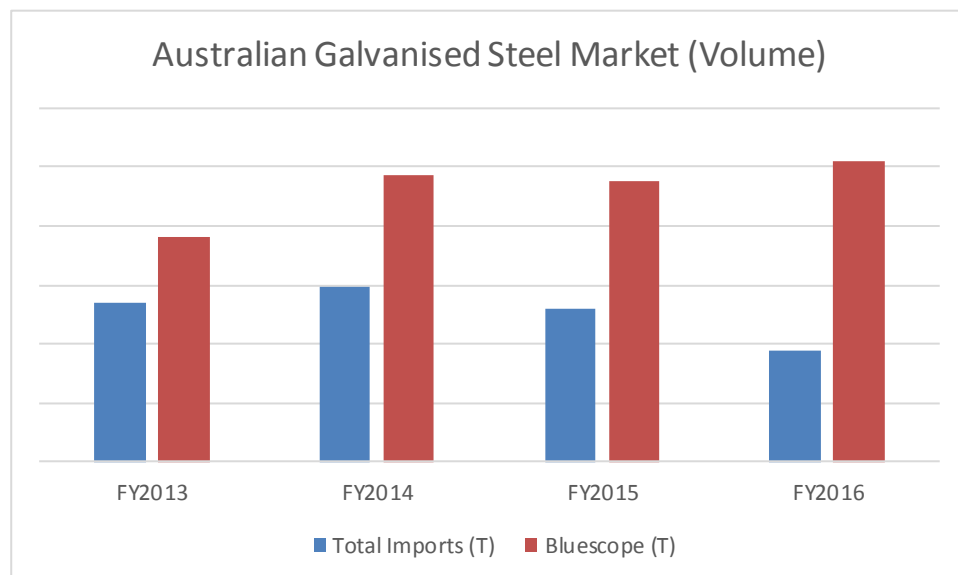
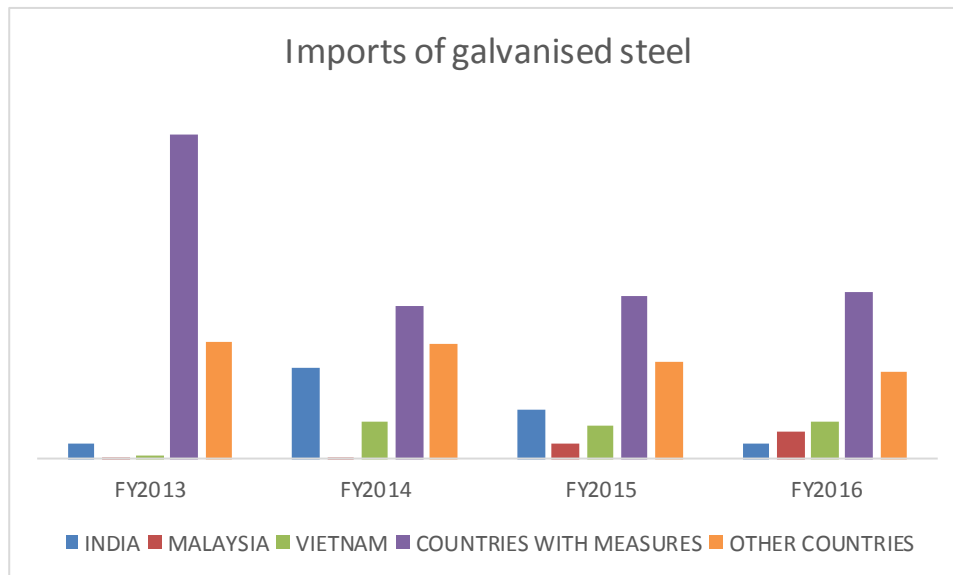


Figure 2 – Australian galvanised steel - volume trend

Figure 2 above compares Australian industry’s volume of sales to total imports from FY2013 to FY2016. The graph illustrates that Australian industry’s volume of sales has increased in FY2014 from FY2013 and then remained fairly stable since FY2013 to FY2016, while the imports have been gradually declining from FY2013 to FY2016.



**Figure 3 –Volume trend of imports**

Figure 3 demonstrates that total imports of galvanised steel has declined from FY2013 to FY2016. Figure 3 also depicts that imports of galvanised steel from:

- Malaysia have increased from very small volumes in FY2013;
- India have increased significantly in FY2014 but have been decreasing from FY2014 to FY2016;
- Vietnam increased significantly in FY2013 and have been steady since FY2014 to FY2016;
- Countries subject to anti-dumping measures have declined significantly in FY2014 from FY2013 (after imposition of measures), and have been steady from FY2014 to FY2016; and
- Other countries have been gradually declining from FY2013 to FY2016.

## 6. DUMPING INVESTIGATION

### 6.1 Finding

The Commissioner has found that during the investigation period:

- galvanised steel exported to Australia from India, Malaysia and Vietnam (except by Hoa Sen and Nam Kim) was dumped;
- the volume of dumped goods from these countries, and the dumping margins for all exporters (except Hoa Sen and Nam Kim) were not negligible;
- a particular market situation does not exist in the domestic galvanised steel market in Vietnam, such that selling prices in that market are not suitable for normal value purposes; and
- the cost of HRC in the Vietnamese exporters' records reasonably reflect competitive market costs.

Dumping margins for galvanised steel are tabulated below:

Country	Exporter/Manufacturer	Preliminary dumping margin
India	JSW Group	9.0%
	Essar Steel India Limited <sup>29</sup>	7.6%
	Uncooperative and all other exporters	12.0%
Malaysia	CSC Steel Sdn.Bhd	14.5%
	FIW Steel Sdn Bhd	16.5%
	Uncooperative and all other exporters	16.5%
Vietnam	Hoa Sen Group	<2%
	China Steel Sumikin Vietnam Joint Stock Company	8.4%
	Nam Kim Steel Joint Stock Company	<2%
	Uncooperative and all other exporters	14.2%

**Table 4 – Dumping margins – India, Malaysia and Vietnam**

The Commissioner's calculations of export prices, normal values and dumping margins in respect of galvanised steel are at **Confidential Appendix 5**.

On 17 July 2017, the Commissioner terminated the dumping investigation in so far as it relates to exports of galvanised steel from Hoa Sen and Nam Kim from Vietnam due to negligible dumping margins.<sup>30</sup>

<sup>29</sup> Essar Steel only participated in the subsidy investigation, the Commission used Essar Steel's export price from that part of investigation to calculate its dumping margin.

<sup>30</sup> TER 370 refers.

## 6.2 Legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively. Details of the export price and normal value calculations for each exporter are set out in this chapter.

## 6.3 Exporters

### 6.3.1 Responses to the Exporter Questionnaire

Prior to the initiation of this investigation, a search of the ABF import database identified ten potential suppliers of the goods from India, four potential suppliers from Malaysia and nine potential suppliers from Vietnam during the investigation period.

Following initiation of the investigation, the Commission contacted each identified supplier and invited it to complete the Commission's Exporter Questionnaire. The Exporter Questionnaire sought information regarding the exporters' commercial operations and the goods exported to Australia, as well as information regarding the exporters' Australian, other third countries and domestic, sales and costing information.

The Commission received exporter questionnaire responses from seven parties.

### 6.3.2 Categorisation of exporters

The Commissioner has regarded any exporters that submitted a satisfactorily completed response to the Exporter Questionnaire, within a reasonable period, as cooperative exporters. For the purpose of this investigation, the cooperative exporters are:

Country	Cooperative exporter
India	JSW Steel Limited and JSW Steel Coated Products Limited (Collectively JSW Group)
Malaysia	CSC Steel Sdn Bhd (CSCM)
Vietnam	Hoa Sen Group
	China Steel Sumikin Vietnam Joint Stock Company (CSVC)
	Nam Kim Steel Joint Stock Company

**Table 5: Cooperating exporters**

The Commissioner has regarded any exporters that did not submit a satisfactorily completed response to the Exporter Questionnaire, within a reasonable period, as uncooperative.

### **6.3.3 Approach to verification – cooperative exporters**

Taking into account the number of exporters that submitted responses to the Exporter Questionnaire, the Commission undertook on-site verification for the following exporters:

- *India* -JSW Group<sup>31</sup> - which accounted for approximately 5% of galvanised steel exported to Australia from India during the investigation period;
- *Malaysia* - CSC Steel Sdn Bhd - which accounted for approximately 98% of galvanised steel exported to Australia from Malaysia during the investigation period; and
- *Vietnam* - Hoa Sen, Nam Kim and China Steel Sumikin Vietnam Joint Stock Company collectively accounted for approximately 96% of galvanised steel exported to Australia from Vietnam during the investigation period.

Using a risk based approach and considering the largest volume of exports to Australia from each of the above countries, the Commission conducted on-site verification activities in relation to most of the above mentioned exporters of galvanised steel from India, Malaysia and Vietnam to verify the information submitted in their responses to the Exporter Questionnaire, and to examine other information relevant to this investigation. Public record versions of the visit reports for these exporters are available on the Commission's website.<sup>32</sup>

No on-site verification was conducted in relation to Nam Kim, however, the Commission has tested Nam Kim's data for relevance and reliability by comparing the export price to information contained in the ABF's import database and by benchmarking key variables (such as costs, price and adjustments) to verified information provided by other cooperating exporters from Vietnam in the current case. The Commission was satisfied that the data submitted by Nam Kim was relevant and reliable.

The dumping and countervailing calculation report has been prepared for Nam Kim and is available on the Commission's website.<sup>33</sup>

### **6.3.4 Uncooperative and all other exporters**

In relation to uncooperative and all other exporters from each of the three nominated countries, the Commissioner has had regard to all relevant information to calculate dumping margins. Details regarding the determination of dumping margins for uncooperative and all other exporters from India, Malaysia and Vietnam can be found at Section 6.12 of this report.

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<sup>31</sup> JSW Group is the only Indian exporter that completed the exporter questionnaire in relation to the dumping investigation.

<sup>32</sup> EPR 370/070, 076, 078, and 080 refers.

<sup>33</sup> EPR 370/081 refers.

## 6.4 Dumping assessment – JSW Group (India)

### 6.4.1 Verification

The Commission conducted an in-country visit to JSW Group's facility in India to verify the information disclosed in its response to the exporter questionnaire. Two separate responses were received from the JSW Group - from JSW Steel Limited (JSWSL) and its fully owned subsidiary JSW Steel Coated (JSWC). Having considered and verified the nature of the relationship and the details of the transactions between the two related entities, the Commission finds that JSWSL has effective control of JSWC and accordingly has treated JSWL and JSWC as a single exporter of the goods. Consequently, the Commission has calculated a single rate of dumping margin for the JSW Group.

A detailed assessment of the reasons for treating JSWSL and JSWC as a single exporter of the goods is set out in **Confidential Attachment 1**.

### 6.4.2 Export price

The Commission considers, in respect of JSW Group's Australian export sales during the investigation period, that:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were arms length transactions.

The Commission found that the goods have been purchased by the importer from the exporter and export price has therefore been calculated using subsection 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

### 6.4.3 Normal value

Normal values were established in accordance with subsection 269TAC(1) of the Act, using JSW Group's quarterly weighted average domestic invoice prices for like goods, by model, where those sales were in the ordinary course of trade (OCOT), and were sold in sufficient volumes.

For other models where there were insufficient sales made in the OCOT in the domestic market, the normal value has been 'constructed' in accordance with subsection 269TAC(2)(c), using the cost to make (CTM) for Australian export sales; plus the selling, general and administration (SG&A) applicable to goods sold domestically; plus profit of domestic OCOT sales.<sup>34</sup>

To ensure the normal values were properly compared to export prices, in accordance with subsections 269TAC(8) and (9), it was necessary to make adjustments to the normal value for differences in:

- inland freight, handling and other expenses;
- duty drawback applicable on exports sales;
- credit terms adjustment; and

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<sup>34</sup> Profit being measured as a percentage of the CTM.

- bill discounting expenses.

#### 6.4.4 Dumping margin

The dumping margin for JSW Group was established in accordance with paragraph 269TACB(2)(a) of the Act, by comparing quarterly weighted average export prices at free on board (FOB) terms to corresponding quarterly weighted average normal values for the investigation period.

The dumping margin for JSW Group is **9.0%**.

#### 6.4.5 Submissions received in response to the SEF in relation JSW Group's normal value determination and dumping margin calculation

The Commission has received one submission from JSW Group regarding the Commission's methodology used to determine JSW Group's normal value and dumping margin calculation.

JSW Group submitted that for six models which have insufficient OCOT domestic sales, the Commission should have undertaken a 'model-matching' exercise to determine normal values for those models instead of constructing normal values. JSW Group cited previous cases where the Commission has 'model-matched' where insufficient OCOT domestic sales for certain models were found.

#### 6.4.6 The Commission's consideration

The Commission's Dumping and Subsidy Manual states that '*.... Model matching criteria will be followed in order to identify identical goods sold on the exporter's domestic market or, absent identical goods, which goods most closely resemble the goods under consideration...*' and '*...where the circumstances of the domestic sales are such that the Commission considers that available information means it cannot reasonably calculate the necessary adjustment under subsection 269TAC(8) to the domestic sales prices of like goods, normal value may be construed using costs and a profit as required.*<sup>35</sup>

Given the number of variables of the goods<sup>36</sup> for each model of galvanised steel sold in the domestic market by JSW Group, it was not possible for the Commission to calculate the necessary adjustments under subsection 269TAC(8) of the Act. The Commission has therefore constructed normal values for those six models where there was insufficient OCOT domestic sales.

### 6.5 Dumping assessment – CSC Steel Sdn Bhd (Malaysia)

#### 6.5.1 Verification

The Commission conducted an in-country visit to CSCM's facility in Malaysia to verify the information disclosed in the responses to the exporter questionnaire. A visit report

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<sup>35</sup><http://www.adcommission.gov.au/accessadsystem/Documents/DumpingandSubsidyManual> (page 49 refers).

<sup>36</sup> Including features such as width, thickness, coating mass, base metal (hot or cold rolled) and form, etc.



prepared by the Commission in relation to CSCM is available on the Commission's website.<sup>37</sup>

### **6.5.2 Export price**

The Commission considers, in respect of Australian export sales during the investigation period, that:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were arms length transactions.

The Commission found that the goods have not been purchased by the importer from the exporter and the export price has therefore been calculated using subsection 269TAB(1)(c), having regard to all the circumstances of the exportation.

These calculations were based on the price paid by the importer less transport and other costs arising after exportation.

### **6.5.3 Normal value**

Normal values were established in accordance with subsection 269TAC(1) of the Act, using CSCM's quarterly weighted average domestic invoice prices for like goods, by model, where those sales were in the OCOT, and were sold in sufficient volumes.

For other models where there were insufficient sales made in the OCOT in the domestic market, the normal value has been 'constructed' in accordance with subsection 269TAC(2)(c), using the CTM for Australian export sales; plus SG&A applicable to goods sold domestically; plus profit of domestic OCOT sales.

To ensure the normal values were properly compared to export prices, it was necessary to make adjustments, in accordance with subsection 269TAC(8), for differences in:

- freight,
- handling and packaging expenses,
- credit terms, and
- raw material cost adjustment.

### **6.5.4 Dumping Margin**

The dumping margin for CSCM was established in accordance with paragraph 269TACB(2)(a), by comparing quarterly weighted average export prices (at FOB terms) to corresponding quarterly weighted average normal values for the investigation period.

The dumping margin for CSCM is **14.5%**.<sup>38</sup>

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<sup>37</sup> EPR 370/070 refers.

<sup>38</sup> Following the publication of the exporter visit report, the Commission identified a minor calculation error and has adjusted the dumping margin in the SEF.

## **6.5.5 Submissions – Pre SEF**

### **6.5.5.1 HRC supplies by a related party**

BlueScope submitted that CSCM has “related party suppliers of raw materials”. In its submission BlueScope stated that it was apparent from the CSCM exporter visit report that the Commission had compared the purchase price of certain raw materials from the related supplier with the purchase price from unrelated suppliers.

BlueScope submitted that it was necessary for the Commission to have verified whether the raw material purchase price from the related party for HRC was at *full cost of production*, including allocation of overheads.

### **6.5.5.2 The Commission’s response**

The Commission has examined the detailed shareholdings of CSCM’s related entities. The related entities identified by the Commission include:

- CSC Steel Holdings Berhad (CSC) located in Taiwan; and
- China Steel Asia Pacific Holdings Pte Ltd (CSAP) located in Singapore

The Commission noted that CSCM was part owned by CSC, as well as by other private institutional investors. The Commission found no evidence that suggests that CSCM exercises an effective control over the HRC supplier (i.e. CSC Taiwan). Nor is there any evidence that the supplier of the HRC exercised any effective control over CSCM.

However, as noted by BlueScope in its submission, the Commission did compare the purchase price of the HRC from the related entity with various other HRC suppliers. This comparison identified that the purchase price of HRC from the related supplier was consistent with the purchase price of HRC from non-related suppliers.

The Commission noted the conditions set out at the Dumping and Subsidy manual (page 45 of the manual refers) which clarifies that in these circumstances, CSCM has no obligation to provide (and for the Commission to verify) full costs of production of HRC of the entity in Taiwan as CSCM does not exercise effective control over the supplier of the HRC in Taiwan.

The Commission is satisfied that the HRC purchase price from CSCM was comparable to other non-related suppliers and, thus it was not necessary to verify the full costs of production of the HRC in Taiwan.

## **6.6 Claims of a particular market situation - Vietnam**

In its application, BlueScope submitted that currently Vietnam does not manufacture the major raw material (i.e. HRC) for the goods and all HRC used in the production of galvanised steel in Vietnam is imported. BlueScope claims that China is the major source country for HRC imported into Vietnam, therefore China is the most significant influencing factor in the Vietnamese domestic galvanised steel market.

BlueScope's application stated that in the Commission's previous dumping investigation of galvanised steel exported from China (INV 190), it was found that a particular market situation existed in the Chinese iron and steel industry that rendered domestic selling prices of galvanised steel unsuitable for the determination of normal value in China (Report 190 refers).<sup>39</sup> In particular, BlueScope stated that the Commission found that the Chinese government influence distorted the selling prices of HRC, the main raw material used in the manufacture of galvanised steel.

In relation to this investigation, BlueScope contends that the prices of galvanised steel in Vietnam are artificially low as a result of the importation of HRC from China, and that therefore, the domestic prices of galvanised steel in Vietnam are not suitable for the determination of normal values under subsection 269TAC(1) as a *particular market situation* in relation to those goods renders those domestic selling prices unsuitable.

## **6.7 The Commission's assessment**

One of the factors that the Commission considers when assessing 'a particular market situation' is whether a Government has influenced prices in the domestic market, such that the domestic selling prices of goods would be not be suitable for determining normal value.

Based on the information gathered during the course of the investigation from the cooperating exporters and information provided by the Government of Vietnam, the Commission has not found any evidence that suggests that the Government of Vietnam has influenced the prices of galvanised steel in Vietnam during the investigation period.

### *HRC prices*

The Commission has found that Vietnamese exporters cooperating in this investigation imported HRC from a number of countries, including China, to manufacture galvanised steel. The cooperating exporters provided details of their HRC purchases, by country of supply, over the investigation period.

In addition, the Commission examined the HRC sales prices and volumes from China as provided by the cooperating exporters. The Commission verified the sales volumes and prices for HRC from the other countries supplying HRC to the cooperating exporters from Vietnam. This comparative analysis showed that the Chinese HRC costs which were imported from unrelated suppliers at arms length transactions were not the lowest. The Commission also noted that while China was one of the major suppliers of HRC in Vietnam, other countries such as Russia, Taiwan, Korea, Brazil, Japan and Australia also supplied HRC to the Vietnamese exporters of the goods.

In regards to the alleged influence of Chinese HRC prices on the galvanised steel market in Vietnam, the Commission noted that about fifty percent of HRC used in the production of galvanised steel in Vietnam was sourced from China. This confirms that a significant quantity of HRC was sourced from countries other than China. The Commission examined the purchase price of HRC by each source of supply and found that that there

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<sup>39</sup> A detailed assessment of the market situation in China for galvanised steel is contained in Appendix 1 to REP190.

is a significant spread of prices (from the lowest priced source to the highest priced sources). Russian HRC prices are lower than those from China, while Japanese and Korean HRC prices were higher than Chinese HRC prices at a comparable level of trade.

The Commission has found no evidence that suggests that Chinese HRC prices have influenced HRC prices from other countries, which as a consequence could have distorted selling prices of galvanised steel in Vietnam. Furthermore, the Commission found no evidence that indicates that the costs of HRC used in the production of galvanised steel in Vietnam, were not competitive market costs.

A detailed discussion of the Commission's assessment in relation to the claims of a particular market situation in the Vietnamese galvanised steel industry is at **Non-Confidential Attachment 2**.

## **6.8 Submissions received in response to the SEF in relation to a particular market situation claims.**

The Commission has received one submission from the Australian industry regarding the Commission's assessment of a particular market situation in Vietnam.

The Australian industry submitted that in the SEF the Commission has incorrectly concluded that a particular market situation for galvanised steel in Vietnam was not evident and that the Commission's assessment in relation to a particular market situation is flawed. Australian industry submitted that the Commission has ignored the obvious impact of a major source of supply (i.e. China) of HRC into Vietnam which accounted for 52% of total imports. BlueScope argues that consequent impact of lower Chinese prices on the pricing ability of all remaining countries supplying into Vietnam. BlueScope also submitted that it cannot be overlooked that HRC suppliers with smaller market shares in Vietnam than China, must match the prices of most dominant, established supplier (China) with significant excess capacity.

BlueScope asserted that the Commission seeks to discount the impact of Chinese import prices on Vietnamese HRC prices by suggesting that Vietnamese galvanised steel producers should be allowed to benefit from cheaper arms-length input prices from non-related suppliers and non-related producers from China.

## **6.9 The Commission's consideration**

The Commission does not accept the Australian industry's claims. As discussed in the SEF, and reproduced in chapter 6.7 and at Non-Confidential Attachment 2, the Commission has found no evidence that the Government of Vietnam has influenced prices in the domestic galvanised steel market, such that the domestic selling prices of galvanised steel would be not be suitable for determining normal value.

The Commission also did not find any evidence that low HRC import prices from China were influencing import prices from other countries. Contrary to BlueScope's claims, the Commission found that one of the Vietnamese cooperating exporters did not import any HRC from China. This further supports the Commission's assessment that China was not influencing the HRC import prices into Vietnam.

As discussed in chapter 6.7 above, the Commission has also found that the Chinese HRC import prices into Vietnam were not the lowest.

## **6.10 Findings**

The Commissioner found no evidence that a particular market situation exists with regards to the galvanised steel market in Vietnam.

A detailed discussion of the Commission's assessment in relation to the claims of a particular market situation in the Vietnamese galvanised market is at **Non-Confidential Attachment 2**.

## **6.11 Dumping Assessment - China Steel Sumikin Vietnam Joint Stock Company (CSVC) (Vietnam)**

### **6.11.1 Verification**

The Commission conducted an in-country visit to China Steel Sumikin Vietnam Joint Stock Company's (CSCV's) facility in Vietnam to verify the information disclosed in the responses to the exporter questionnaires. A visit report prepared by the Commission for CSVC is available on the Commission's website.<sup>40</sup>

### **6.11.2 Export price**

The Commission considers, in respect of Australian export sales during the investigation period, that:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were arms length transactions.

The Commission has found that the goods have been purchased by the importer from the exporter, and therefore the export price has been calculated using subsection 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

### **6.11.3 Normal value**

Normal values were established in accordance with subsection 269TAC(1) of the Act, using CSCV's quarterly weighted average domestic invoice prices for like goods, by model, where those sales were in the OCOT, and were sold in sufficient volumes.

For other models where there were insufficient sales made in the OCOT in the domestic market, the normal value has been 'constructed' in accordance with subsection 269TAC(2)(c), using the CTM for Australian export sales; plus SG&A applicable to goods sold domestically; plus profit of domestic OCOT sales.

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<sup>40</sup> Refer EPR 370/76.

To ensure the normal values were properly compared to export prices, it was necessary to make adjustments, in accordance with subsection 269TAC(8), for differences in:

- inland freight, handling and packaging expenses;
- credit terms; and
- export related expenses.

#### **6.11.4 Dumping margin**

The dumping margin for CSVC was established in accordance with subsection 269TACB(2)(a), by comparing quarterly weighted average export prices (at FOB terms) to corresponding quarterly weighted average normal values for the investigation period.

The dumping margin for CSVC is **8.4%**.

### **6.12 Dumping Assessment - Uncooperative and all other exporters**

#### **6.12.1 FIW Steel - Malaysia**

FIW Steel provided responses to the exporter questionnaire, however the responses were determined to be deficient by the Commission. The Commission provided a number of opportunities to FIW Steel to rectify these deficiencies however, the Commission has determined that final information provided by FIW Steel was still significantly deficient.

Therefore, after having regard to tests for relevance and reliability, the Commission is not satisfied that the information provided in the responses to the Exporter Questionnaire can be relied upon to determine FIW Steel's dumping margin. Hence, the Commission regarded FIW Steel as an uncooperative exporter.

The Commission's assessment of FIW Steel's response to the exporter questionnaire is at **Confidential Attachment 2**.

The export price, normal value and dumping margin for FIW Steel was determined using the same methodology for all uncooperative and other exporters from Malaysia as outlined in section 6.12.3 below.

The dumping margin for FIW Steel is **16.5%**.

#### **6.12.2 Essar Steel - India**

##### **6.12.2.1 Export price**

Essar Steel cooperated with the subsidy investigation but not with the dumping investigation. As such, a question arises concerning the determination of export price for the investigation. As part of the subsidy investigation an exporter is required to provide a detailed listing of all export sales in the investigation period and this data is subject to verification. In a subsidy case, the provision of export sales data is necessary because any subsidy determined must be expressed as a proportion of the export price.

The Commission has considered how to treat this export price data for the purposes of the dumping and subsidy parts of the investigation. One view is that as dumping



considerations are separate to the subsidy investigation and, as Essar Steel did not cooperate with the dumping aspect of the investigation, their export price should be assessed under subsection 269TAB(3) – having regard to all relevant information. Such an approach generally results in ascribing to the exporter the lowest price weight averaged export price for the investigation period for exports from India.

An alternate view is that because Essar Steel had cooperated with the subsidy investigation, and as export sales data had been verified to the Commission's satisfaction in a desk top examination, that data remains relevant to the dumping investigation.

On balance, the Commission considers that as Essar Steel did not cooperate in the dumping investigation the relevant export price should be determined in accordance with subsection 269TAB(3), which requires having regard to all other relevant information.

Having regard to 'all relevant information' available the Commission finds that the most relevant information to establish export sales for Essar Steel are the export sales data provided by Essar Steel as part of the subsidy examination. Therefore, the Commission has established export price using Essar Steel's export data in accordance with subsection 269TAB(3), using the export sales data submitted in response to the subsidy questionnaire.

#### **6.12.2.2 Normal Value**

As noted above, Essar Steel did not cooperate in the dumping investigation. Therefore, after having regard to all relevant information, the normal values for Essar Steel was established in accordance with subsection 269TAC(6) of the Act, using the highest weighted average normal value for the entire investigation period from the cooperating exporter from India, excluding any favourable downward adjustments made to that figure.

#### **6.12.2.3 Dumping margin**

The dumping margin for Essar Steel has been established in accordance with subsection 269TACB(2)(a) of the Act, by comparing the weighted average export prices established under subsection 269TAB(3) with the weighted average normal values established under subsection 269TAC(6).

The dumping margin for Essar Steel is **7.6%**.

### **6.12.3 The dumping margin for all uncooperative and other exporters – India, Malaysia and Vietnam**

#### **6.12.3.1 Export price**

After having regard to all relevant information, the export prices for the uncooperative exporters from India (other than Essar Steel), Malaysia, and Vietnam were established separately for each country in accordance with subsections 269TAB(3) and 269TAB(4) of the Act, using the lowest weighted average export price for the investigation period from the cooperating exporters of that country, excluding any part of that price that relates to post-exportation charges.

### **6.12.3.2 Normal values**

After having regard to all relevant information, the normal values for the uncooperative exporters from India, Malaysia and Vietnam were established separately for each country in accordance with subsection 269TAC(6) of the Act, using the highest weighted average normal value for the investigation period from the cooperating exporters of that country, excluding any favourable downward adjustments made to that figure.

### **6.12.3.3 Dumping margin**

The dumping margins for uncooperative exporters from India and Vietnam were established in accordance with subsection 269TACB(2)(a) of the Act, by comparing the weighted average export prices established under subsection 269TAB(3) with the weighted average normal values established under subsection 269TAC(6).

The dumping margin for uncooperative exporters from India, other than Essar Steel, is **12.0%**.

The dumping margin for uncooperative exporters from Malaysia is **16.5%**.

The dumping margin for uncooperative exporters from Vietnam is **14.2%**.

For all other exporters the rate was set at the same level as the non-cooperative rate as explained above.

## **6.13 Volume of dumped exports**

Pursuant to subsection 269TDA(3) of the Act, the Commissioner must terminate an investigation if satisfied that the total volume of goods that have been, or may be, dumped is negligible. Subsection 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over the investigation period if subsection 269TDA(5)(c) does not apply. Pursuant to subsection 269TDA(6), the volume of goods at negligible dumping margins are not prevented from being taken into account for the purposes of subsection 269TDA(3).

Using the ABF import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports in the Australian market.

Based on this information, the Commission is satisfied that, when expressed as a percentage of the total imported volume of the goods during the investigation period, the volume of allegedly dumped goods from India, Malaysia and Vietnam were individually greater than 3% and therefore not negligible.



## 7. SUBSIDY INVESTIGATION

On 17 July 2017, the Commissioner terminated the subsidy investigation in so far as it relates to exports of galvanised steel from Vietnam due to negligible subsidy margins.<sup>41</sup>

This Chapter discusses the findings regarding the subsidies received for galvanised steel exported to Australia from India.

### 7.1 Finding

The Commissioner finds that countervailable subsidies have been received in respect of galvanised steel exported to Australia from India during the investigation period. The Commission finds that the volume of subsidised galvanised steel exported to Australia during the investigation period from India was not negligible.

If the country of export is a developing country but not a special developing country, a countervailable subsidy received is negligible if the subsidy is not more than 2 per cent when expressed as a percentage of the export price of the goods. India is a developing country as defined in subsection 3(1) of the *Customs Tariff Act 1995* (the Tariff Act).

The Commissioner relies on this classification when applying section 269TDA. Accordingly, where exporters from India receive countervailable subsidies of not more than 2 per cent of their export price, subsection 269TDA(2) requires that the subsidy investigation be terminated insofar as it relates to those exporters.

### 7.2 Legislation

Sections 269TACC and 269TACD concern determinations by the Parliamentary Secretary whether a benefit has been conferred by a financial contribution or price support, and the amount of this benefit. Generally, the existence of a benefit is determined by comparison with a benchmarked market-place, or if it involves claims of a benefit received from revenue foregone, from a comparison of the actual tax rate applied to the tax rates of the country in question.

### 7.3 Investigated programs

BlueScope's application alleges that Indian exporters of galvanised steel benefited from 55 countervailable subsidies. The alleged subsidies related to the following programs:

- the provision of goods at less than adequate remuneration;
- grants;
- tariff policies;
- electricity duty exemptions;
- preferential taxation schemes;
- mining rights; and
- preferential loan schemes.

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<sup>41</sup> TER 370 refers

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During examination of the information provided in exporter questionnaire responses, and during verification of the cooperating Indian exporters, the Commission was provided with information that indicated that benefits were received, or were able to be received, by exporters of the goods under four additional subsidy programs. As a result of the identification of a further four programs the Commission has investigated a total of 59 programs.

To assess these programs in relation to galvanised steel exported to Australia, the Commission included questions relating to each program in a questionnaire sent to the Government of India (GOI) and exporter questionnaire to all known exporters of galvanised steel from India, shortly after initiation of the investigation. A follow-up supplementary questionnaire was sent to the GOI following the exporter verification visits.

A public record version of the GOI's responses and responses received from cooperating exporters from India are on the Commission's website.

### 7.4 The Commission's assessment of Subsidy Programs

The Commission has found that 11 out of 59 alleged countervailable subsidies have been received in respect of galvanised steel exported to Australia from India because there was a financial contribution to these exporters that conferred a benefit which was specific in nature. Specific findings in relation each program investigated and whether it has been found to be countervailable are outlined in the table 6 below.

Program no.	Program Title	Program type	Countervailable in relation to galvanised steel
1	Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material in Special Economic Zones (SEZs)	Tax Policy	No
2	Export Income Tax Exemptions in SEZs	Tax Policy	No
3	Exemption in SEZs from Minimum Alternate Tax	Tax Policy	No
4	Exemption in SEZs from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material	Tax Policy	No
5	Exemption in SEZs from Service Tax	Tax Policy	No
6	Discounted Land Fees and Leases in SEZs	Grant	No
7	Discounted Electricity Rates in SEZs	Electricity	No
8	Exemption in SEZs from State Sales Tax and Other Levies as Extended by State Governments	Tax Policy	No
9	Duty-Free Importations for Companies Designated as Export Oriented Units (EOUs)	Tax Policy	No
10	Reimbursement to EOUs of Central Sales Tax	Tax Policy	No
11	Duty Drawback for EOUs on Fuel Procured from Domestic Oil Companies	Tax Policy	No

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12	Credit for Service Tax paid by EOUs	Tax Policy	No
13	Exemptions from Income Tax for EOUs	Tax Policy	No
14	Exemption from Central Excise Duty on Goods Procured from Domestic Tariff Areas and On Goods Manufactured in India	Tax Policy	No
15	Assistance to States for Developing Export Infrastructure and Allied Activities	Grant	No
16	Market Access Initiative	Grant	No
17	Market Development Assistance	Grant	No
18	Meeting Expenses for Statutory Compliances in Buyer Country for Trade Related Matters	Grant	No
19	Brand Promotion and Quality	Grant	No
20	Test Houses	Grant	No
21	Focus Product Scheme	Grant	No
22	Rupee/Foreign Currency Export Credit & Customer Service to Exporters	Grant	No
23	Export Promotion Capital Goods Scheme	Tariff Policy	Yes
24	Duty Exemption/Remission Schemes – Duty-Free Import Authorization Scheme	Tax Policy	No
25	Duty Exemption/Remission Schemes – Advance Authorization Scheme	Tariff Policy	Yes
26	Duty Exemption/Remission Schemes – Duty Entitlement Passbook Scheme	Tariff Policy	Yes
27	Duty Exemption/Remission Schemes – Duty Drawback Scheme	Tariff Policy	Yes
28	Provision of Captive Mining Rights for Minerals Including Iron Ore and Coal	Rights	No
29	Purchase of Iron Ore From State-owned Enterprises for Less Than Fair Market Value	LTAR	No
30	80-IB Income Deduction Program	Tax Policy	No
31	80-IA Income Tax Deduction Program	Tax Policy	Yes
32	Steel Development Fund Loans	Loan	No
33	Steel Development Fund R&D Grants	Grant	No
34	State Government of Maharashtra (SGOM) – Industrial Promotion Subsidy	Grant	No
35	SGOM – Exemption from Electricity Duty	Electricity	Yes
36	SGOM – Waiver of Stamp Duty	Tax Policy	No
37	SGOM – Power Tariff Subsidy	Electricity	No

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38	SGOM – Incentives to Strengthen Micro, Small and Medium Enterprises (MSME)	Grant	No
39	SGOM – Special Incentives of the SGOM for Mega Projects	Grant	Yes
40	State Government of Gujarat (SGOG) – Assistance to MSMEs – Interest Subsidy	Loan	No
41	SGOG – Assistance to MSMEs – Quality Certification	Grant	No
42	SGOG – Sales Tax Exemptions and Deferrals On Purchase of Goods	Tax Policy	No
43	SGOG – VAT Remission Scheme	Tax Policy	No
44	SGOG – Scheme for Assistance to Industrial Parks/Industrial Estates Set Up By Private Institutions	Grant	No
45	SGOG – Critical Infrastructure Projects	Grant	No
46	State Government of Chhattisgarh (SGOC) – Industrial Policy 2009-2014: Fixed Capital Investment Subsidy	Grant	No
47	SGOC – Industrial Policy 2009-2014: Interest Subsidy	Loan	No
48	SGOC – Industrial Policy 2009-2014: Quality Certification	Grant	No
49	SGOC – Industrial Policy 2009-2014: Electricity Duty Exemption	Electricity	No
50	SGOC – Industrial Policy 2009-2014: Stamp Duty Exemption	Tax Policy	No
51	SGOC – Industrial Policy 2009-2014: Provision of Land for Less than Adequate Remuneration	LTAR	No
52	State Government of Jharkhand (SGOJ) – Comprehensive Project Investment Subsidy	Grant	No
53	SGOJ – Stamp Duty and Registration	Tax Policy	No
54	SGOJ – Incentive for Quality Certification	Grant	No
55	SGOJ – VAT and Tax Incentives	Tax Policy	No
56	Merchandise Exports from India Scheme	Grant	Yes
57	Sales Tax Deferral Program	Tax Policy	Yes
58	Electricity Duty Exemption	Electricity	Yes
59	Interest free loan	Loan	Yes

**Table 6: List of subsidy Programs investigated for India**

## 7.5 Subsidy margins

### 7.5.1 Cooperative exporters

The Commission found that the two cooperative exporters received countervailable subsidies under the programs noted in the table 6 above.

The Commission has noted one of the cooperating exports from India ‘JSW Group’ has received ‘upstream’ subsidies. The Commission’s assessment regarding JSW Group’s upstream subsidies is at **Confidential Attachment 5**.

### 7.5.2 Subsidy

The amount of benefit received has been attributed to each unit of galvanised steel (per tonne) using volume of sales of the goods by each cooperative exporter.

Exporter specific subsidy margins have been calculated – the amount of the benefit was expressed as a percentage of export price for each selected exporter, for each countervailable program.

### 7.5.3 Cooperative and Uncooperative Exporters

Table 7 below shows the subsidy margin calculations for Indian cooperative and uncooperative exporters of galvanised steel:

<b>Exporter / manufacturer</b>	<b>Subsidy margin</b>
JSW Group	5.0%
Essar Steel	3.6%
<i>Uncooperative and All Other Exporters</i>	5.9%

**Table 7 – Indian exporter’s subsidy margins**

The Commission’s finding in relation to each program investigated (including the method of calculation of subsidy margins) for India are outlined in **Non Confidential Attachment 3**.

## 7.6 Submissions received in response to the SEF in relation to the Subsidy Investigation.

In response to the SEF, two submission relating to the Subsidy investigation was received by the Commission. Following the publication of these submissions, BlueScope provided its response to the issues raised in that submission.

#### (i) GOI

In response to the SEF, the Government of India (GOI) submitted that in GOI’s view the SEF did not establish the existence of the elements of countervailable benefits in any of the schemes preliminarily found to be countervailable, as envisaged in the Subsidies and Countervailing Measures Agreement (“hereinafter referred to as “SCM”).

In its submission, the GOI also submitted that it was not afforded sufficient opportunity to discuss the alleged subsidies with the Commission. The GOI requested the Commission to reappraise the submissions of GOI and provide enough opportunity to the GOI to explain its schemes.

#### (ii) Essar Steel

In its submission, Essar Steel stated in relation to Program 23 (EPCG) that after further review of the information provided to the Commission it was identified that some of the licenses that were issued by Essar's related entities were not related to the goods, and therefore should be removed from the subsidy margin calculation.

Essar Steel also submitted that in relation to Program 27 (Duty Drawback Scheme), data provided by Essar in response to the exporter questionnaire included information outside the investigation period and therefore should be excluded from subsidy margin calculation.

(iii) BlueScope

In its submission dated 26 June 2017, BlueScope stated that it has noted that the GOI was provided a government questionnaire and a supplementary government questionnaire. BlueScope submitted that the GOI's representations are not supported by relevant program eligibility information demonstrating that program numbers 23, 25 and 27 are not countervailable. BlueScope stated that in absence of this information, the Commission is correct to rely on the information supplied by the cooperative exporters confirming the receipt of countervailable benefits from the GOI.

## 7.7 The Commission's consideration

(i) Countervailable subsidies

The Commission has considered GOI's submission in relation to the Commission's preliminary findings set out in the SEF. During the course of the investigation, the Commission examined 59 subsidy programs and found 11 of those 59 programs were countervailable. The Commission found that the two exporters cooperating in this investigation from India<sup>42</sup> received a financial contribution, income support and/or the price support conferring a benefit. For each of these 11 countervailable programs, the Commission found the required legal basis and eligibility criteria were met in relation to these programs, in addition to noting that the benefit provided by the GOI was specific to galvanised steel. As such the Commission found that all 11 subsidy programs were countervailable subsidies. After considering the claims set out in the GOI's submission, the Commission has not departed from the preliminary findings set out in the SEF. A detailed analysis of all programs investigated by the Commission is at **Non-Confidential Attachment 3**.

Consultations with the GOI

In relation to the claims by the GOI that it was not afforded sufficient opportunity to discuss the alleged subsidies with the Commission, the following are a summary of the Commission's dealings with the GOI:

- As required by subsection 269TB(2B), before initiating the subsidy investigation the Commissioner notified the GOI of the application. As required by subsection

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<sup>42</sup> JSW group and Essar Steel.

269TB(2C), the notification included an invitation to the GOI to consult with the Commissioner. The GOI provided a written response to the Commission.

- On the day of initiation of the investigation (7 October 2016), the GOI was provided with a Government questionnaire (GQ) in relation to 55 alleged subsidy programs. The GOI sought, and the Commission granted, two extensions to provide a response to the GQ. A partial response was provided to the Commission on 24 November 2016 and at this time the GOI asked for further 10 day extension (the Commission again granted this request). The GOI failed to provide any information by the extended due date, however almost 3 weeks after the due date the GOI sent additional information in relation to those programs.
- Following verification of the Indian exporters, the case team identified four additional countervailable subsidy programs that one of cooperating exporter's (JSW Group) benefited from. On this basis, the case team provided a supplementary GQ to the GOI on 19 March 2017 seeking additional information in relation to these programs and allowing 14 days for the GOI to respond. The GOI, after seeking two extensions, provided a response on 14 April 2017.

Furthermore, following GOI's submission in response to the SEF, the Commission wrote to the GOI inviting it to a teleconference to discuss GOI's concerns raised in the GOI's submission.

The GOI declined the Commission's offer. Based on these interactions, the Commissioner considers that the GOI was afforded sufficient opportunities to discuss the alleged subsidy programs with the Commission and to make submissions to the investigation.

(i) Essar Steel

The Commission has calculated Essar's subsidy margin including programs 23 and 27 based on the information provided by Essar Steel in response to the exporter questionnaire. Before publishing the subsidy margin report on the Commission's website<sup>43</sup> the Commission sought clearance from Essar Steel, affording them a further opportunity to confirm the data the Commission relied on to calculate its subsidy margin. Essar Steel confirmed that data was correct and cleared the report for publication on the Commission's website on 1 May 2017.

Essar Steel submitted its response to the exporter questionnaire on 16 December 2016 in relation to programs 23 and 27. Essar Steel has not provided any revised information (data) regarding its concerns since this time. Essar steel has only raised its concerns in relation to these two programs in response to the SEF without providing evidence to support its claims.

At this late stage of the investigation, it is not possible for the Commission to verify the additional information provided by Essar Steel, the Commissioner has therefore not considered the information provided in response to the SEF and has not amended Essar Steel's subsidy margin.

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<sup>43</sup> EPR no. 85 refers

## **7.8 Findings**

The Commissioner finds that during the investigation period all exporters of galvanised steel from India received countervailable subsidies and that the subsidy margins were not negligible. The Commissioner also finds that the volume of subsidised goods exported to Australia during the investigation period from India was not negligible.



## 8. ECONOMIC CONDITION OF THE INDUSTRY

### 8.1 Finding

Having regard to the information contained in the application and the information obtained and verified during this investigation, the Commissioner considers that the Australian industry has experienced injury in the form of:

- price depression
- price suppression
- reduced profit and profitability
- reduced capital expenditure
- reduced employment

The Commission considers the injury suffered by the Australian industry as discussed above was material.

### 8.2 Introduction and legislative background

This chapter outlines the economic condition of the Australian industry and assesses whether the Australian industry has suffered injury.

Under sections 269TG, 269TJ and 269TJA, one of the matters that the Parliamentary Secretary must be satisfied of in order to publish a dumping duty and/or countervailing duty notice is that the Australian industry has experienced material injury.<sup>44</sup>

The matters that may be considered in determining whether the industry has suffered material injury are set out in section 269TAE.

In assessing material injury, the Commissioner also has had regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).<sup>45</sup>

### 8.3 Commencement of injury and analysis period

The Australian industry claims that injury from India, Malaysia and Vietnam commenced in the FY2014 following the imposition of anti-dumping measures on exports from China, Korea and Taiwan in August 2013. BlueScope further claims that material injury has continued in FY2016 as the dumped and subsidised imports of galvanised steel from India and dumped goods from Malaysia and Vietnam have prevented BlueScope from achieving adequate returns on sales.

The Commission has examined the Australian market and the economic condition of the Australian industry from 1 July 2012 for the purposes of its injury analysis. The

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<sup>44</sup> Section 269TJA relates to concurrent dumping and countervailable subsidisation. This provision is relevant to the Commissioner's assessment of whether, because of the combined effects of the dumping and the amount of countervailable subsidy received in respect of the goods exported from India, material injury to an Australian industry producing like goods has been or is being caused.

<sup>45</sup> Ministerial Direction on Material Injury 2012, 27 April 2012, available at [www.adcomission.gov.au](http://www.adcomission.gov.au).

Commission's assessment of injury caused by dumped and/or subsidised imported is discussed in Section 10 of this report.

## **8.4 Approach to injury analysis**

For the purpose of assessing whether there are reasonable grounds for establishing that injury has occurred, the Commission relied on information collected and verified from BlueScope, cooperating importers, end-users and exporters.

As discussed in Chapter 5 of this report, BlueScope supplies galvanised steel into five different market sectors. During the investigation period, the building and distribution sectors dominated the Australian market, accounting for majority of BlueScope's sales. The Commission also noted that almost all imports from the three nominated countries that were directly competing with BlueScope were in these market sectors. Therefore, in addition to an industry wide assessment, the Commission has also conducted a more detailed assessment by market sector as explained below, with a specific focus on the building and distribution sectors.

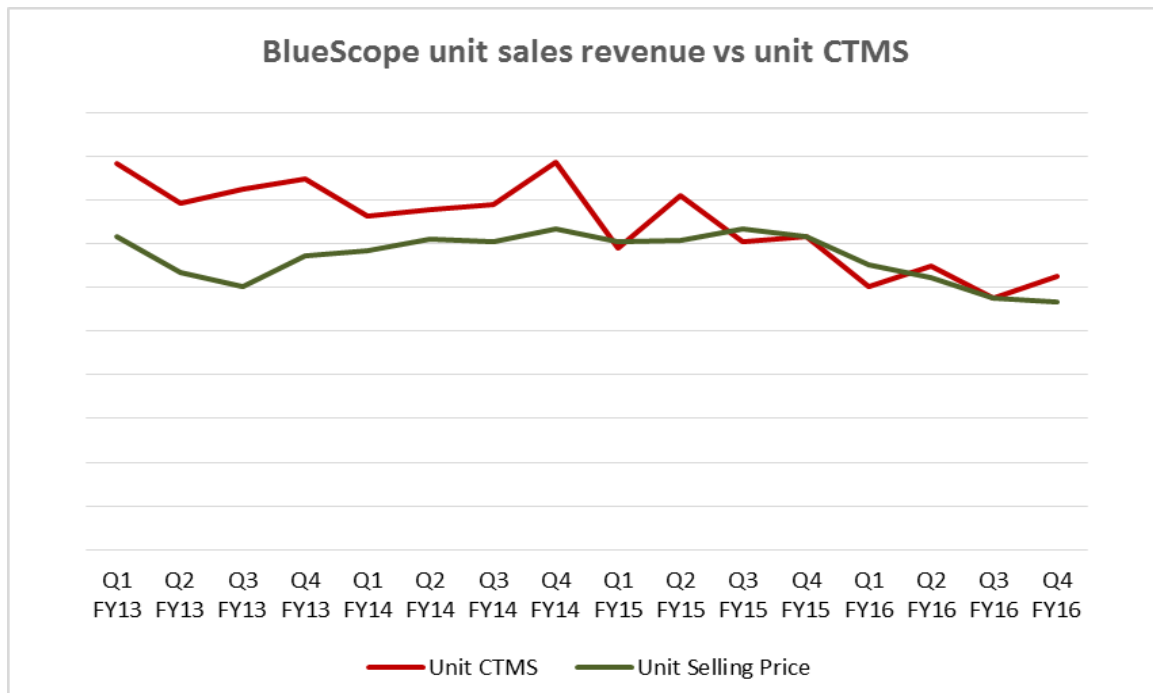
## **8.5 Price effects**

The Commission's analysis of price effects was conducted using verified sales data from BlueScope. The Commission did not include BlueScope's export sales in this analysis. In its application, BlueScope alleged that galvanised steel exported from India, Malaysia and Vietnam at dumped and/or subsidised price has been sold at prices below other market participants and that these low prices caused price depression and price suppression.

### **8.5.1 Price depression and suppression**

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The following graph shows the trends in BlueScope's unit price and unit cost to make and sell (CTMS) for galvanised steel for the injury analysis period (i.e. from 1 July 2012 to 30 June 2016)



**Figure 4: BlueScope's galvanised steel unit price and unit cost**

Figure 4 above shows unit price trends from Quarter 1 FY2013 (Q1 FY13) to Quarter 4 FY2016 (Q4 FY16) and depicts that between the FY2013 and FY2016, BlueScope's unit price decreased relative to unit cost. Although the unit CTMS has decreased at a higher rate than that of the unit price, unit price still remains below unit cost, indicating price suppression and loss of profit as discussed in Chapter 8.6 of this report.

Over the injury analysis period, BlueScope's galvanised steel unit selling prices are an average 6.4% lower than the average unit cost to make and sell. During the 2016 financial year (the investigation period), BlueScope's prices were still lower than the cost to make and sell for its galvanised steel operation.

### 8.5.2 Analysis by BlueScope's market sectors

The Commission has conducted a detailed analysis of BlueScope's five major galvanised steel market sectors (i.e. automotive, building, distribution, manufacturing and pipe and tube) over the investigation period and found that:

- the weighted average selling price to the distribution, manufacturing, and pipe and tube sectors were below the weighted average cost, while the weighted average selling price to the building and automotive sectors were above the weighted average cost;
- the prices in each sector, with the exception of the pipe and tube sector, declined over the investigation period; and
- prices to the pipe and tube sector were the lowest, due to a particular pricing methodology which was not based on IPP (as discussed in chapter 9.13.2 of this report), adopted for this market sector.

### **8.5.3 Submissions – Pre SEF**

#### **8.5.3.1 Post investigation period price**

Essar Steel in its submission claimed that when analysing price trends, and the price suppression and depression claims by BlueScope, the Commission should have regard to the BlueScope price trend beyond the investigation period. Essar Steel claims that BlueScope's domestic prices have increased more than the international steel prices, reflecting BlueScope's alleged behaviour of increasing prices to take advantage of ongoing dumping investigations.

#### **8.5.3.2 The Commission's Assessment**

The Commission's assessment of BlueScope's performance and import trends post investigation period is at Chapter 10 of this report.

### **8.5.4 Conclusion – price effects**

Based on above analysis, the Commission considers that the Australian industry has experienced price depression and price suppression during the investigation period.

## **8.6 Profit and profitability**

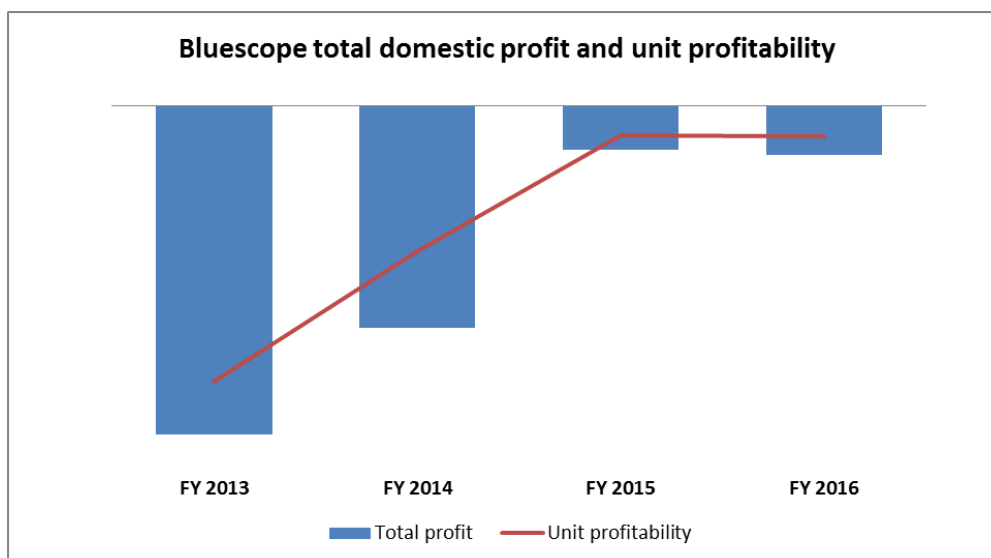
### **8.6.1 Profit and profitability**

In its application, BlueScope submitted that notwithstanding any improvement in its fixed unit costs, it could have further improved the profit and profitability of sales of the goods if not for price undercutting by dumped and subsidised goods exported from India, and dumped goods exported from Malaysia and Vietnam.

Figure 5 below shows BlueScope's profit and profitability trends from FY 2013 to FY2016 financial years.<sup>46</sup>

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<sup>46</sup> As a percentage of sales revenue.



**Figure 5 – BlueScope’s total profit and profitability for galvanised steel**

Figure 5 above illustrates that BlueScope’s improved profitability since FY2013 to FY2015. The graph shows that despite the improved profitability over the injury analysis period, BlueScope continued to make a loss in the galvanised steel business during the investigation period.

BlueScope has indicated that improvements in per unit profits and overall profitability were due to the following reasons:

- decreases in costs as a result of falling input material prices, mainly iron ore and HRC, and cost cutting and efficiency programs; and
- reductions in import volumes of galvanised steel from countries nominated in investigations 190 and 193 (namely China, Korea and Taiwan) which led to a partial recovery of sales volumes.

The Commission verified BlueScope’s cost to make and sell galvanised steel and found that BlueScope has decreased its fixed costs, such as SG&A expenses, over the injury analysis period. The Commission has also examined imports of galvanised steel using the ABF’s import database and, as detailed in the Chapter 8.7 of this report. There has been a reduction in import volumes of galvanised steel from countries nominated in investigations 190 and 193 and an increase in domestic sales of galvanised steel by BlueScope.

#### All other Sectors

The Commission has noted that during the investigation period two of BlueScope’s five galvanised steel sectors were profitable while other three sectors incurred losses. Overall, the Australian industry was operating at a loss during the investigation period. The Commission’s detailed assessment of each sector is at **Confidential Appendix 2**.

### **8.6.2 Conclusion – profit and profitability**

Following on from the finding that BlueScope suffered injury in relation to price suppression and depression, the Commissioner has found that BlueScope also suffered injury in the form of lost profit and profitability.

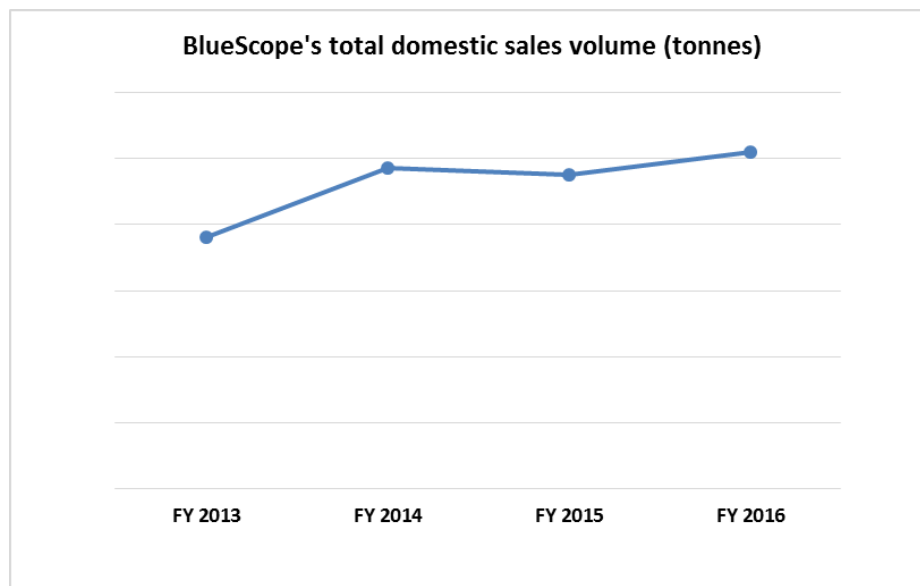
## **8.7 Volume trends**

In its application, BlueScope claims that it has suffered injury in the form of reduced sales volumes. In undertaking an assessment of volume trends, the Commission has relied on verified data provided by BlueScope and exporters, and information available in the ABF import database for the injury analysis period 1 July 2012 to 30 June 2016. The Commission cleansed data obtained from the ABF import database based on the following methodology:

- data was extracted from the ABF import database based on relevant tariff classifications and statistical codes;
- the data was then filtered based on the goods description to exclude import transactions that are not the goods under consideration; and
- the data was filtered to exclude those line items where the free on board (FOB) price per tonne was outside an identified range that was considered a reasonable price range for the goods. This identified range was based on observations from previous investigations, reviews and inquiries into galvanised steel, which also excluded 'outlying' data.

### **8.7.1 Sales volume**

The following graph shows BlueScope's total sales volume for galvanised steel in the Australian market since July 2012.



**Figure 6: Domestic sales volume of galvanised steel**

The figure 6 shows that BlueScope's domestic sales volumes of galvanised steel have noticeably increased in FY2014 after anti-dumping measures were imposed against

China, Korea and Taiwan and continued to gradually increase during the investigation period after decreasing in FY2015.

### 8.7.2 Volume trend

The following graph compares BlueScope's sales volume of galvanised steel with the collective volume of dumped and/or subsidised imports from India, Malaysia and Vietnam, and with all other imports (including undumped imports from Vietnam).

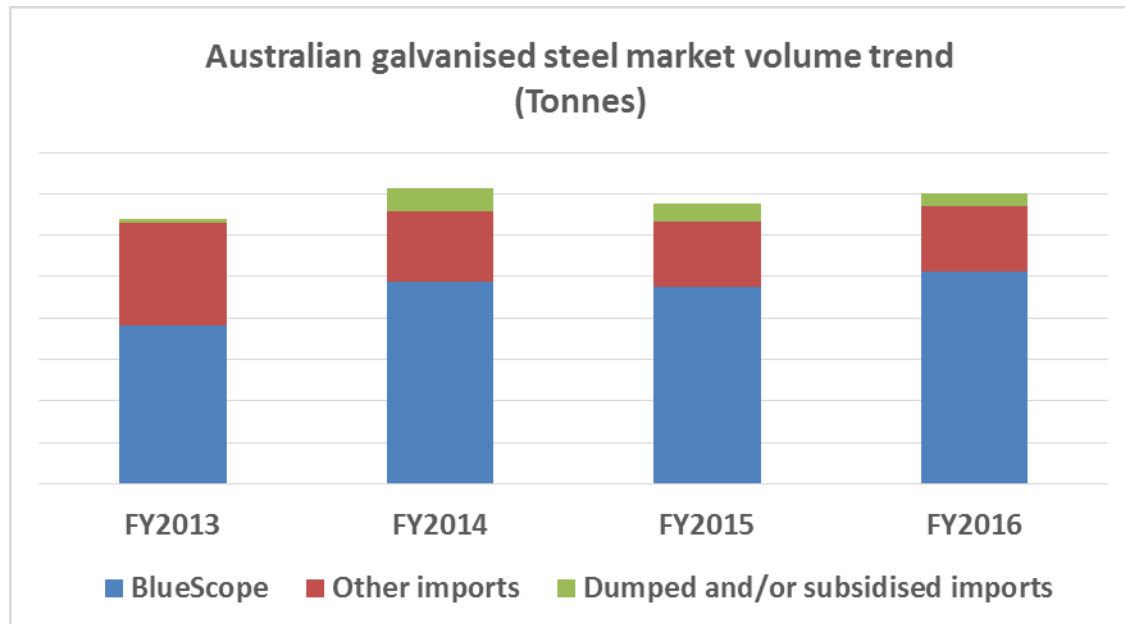


Figure 7 – Australian market volume

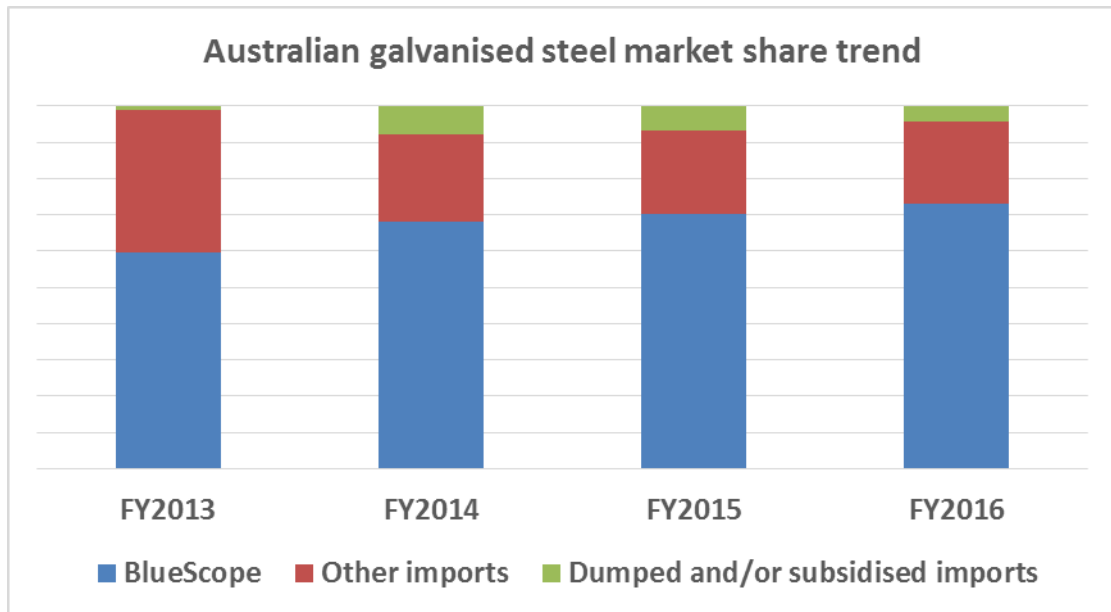
Figure 7 demonstrates that overall total market volume has increased from FY2013 to FY2016.

As highlighted in the Figure 7 graph above, the volume growth in the total market has been shared by BlueScope and imported goods. However, with the imposition of measures in August 2013 on galvanised steel exported from China, Korea and Taiwan (as noted in section 5 of this report, China, Korea and Taiwan make up the biggest share of volumes) as a result of investigations 190 and 190, there was a significant shift to exports from the countries under current investigation.

Despite an increase in domestic sales volumes during the investigation period, BlueScope claims it has suffered volume injury. Specifically, BlueScope claimed that if it were not for the dumped and/or subsidised goods entering the Australian market from India, Malaysia and Vietnam, it would have achieved an even greater number of domestic sales during the investigation period.

## 8.8 Market share

The following graph shows changes in the domestic market share between BlueScope and importing countries using data from the ABF import database and BlueScope's sales data for the period FY2013 to FY2016.



**Figure 8 – Australian market share**

Figure 8 above shows that BlueScope's share in the Australian galvanised steel market increased in FY2016 and throughout the injury analysis period (i.e. FY2013-FY2016). Figure 8 also shows that while there was a marked increase in the cumulative market share of dumped and/or subsidised imports from FY2013 to FY 2014, the market share of these goods have declined since then. The market share of other imports has declined over the injury assessment period.

BlueScope claims that reductions in the market shares of the other imports of galvanised steel, predominately imports from China, Korea and Taiwan, was the result of investigations 190 and 193 where anti-dumping measures were imposed against these export sources and countervailing measures was imposed against China.

## **8.9 Submissions – Pre SEF**

### **8.9.1 New Zealand imports**

Essar Steel, in its submission, requested that the exports of galvanised steel from New Zealand be included in the analysis of export volume trend analysis as these exports are said to be from BlueScope's own subsidiary in New Zealand. Essar Steel claimed that inclusion of exports from New Zealand would provide a more accurate market share trend.

### **8.9.2 The Commission's assessment**

The Commission has not included the imports of galvanised steel from New Zealand with other imports but notes that they account for a very small proportion of the market.

## **8.10 Submissions received in response to the SEF in relation to Australian industry's imports from New Zealand.**

The Commission received one submission from Essar Steel in response to the SEF.



Essar Steel submitted that imports from New Zealand must be carefully considered by the Commission in determining BlueScope's material injury and causation for the following reasons:

- New Zealand account for a similar market share as imports from India;
- imports from New Zealand are directly controlled by BlueScope;
- whether imports from New Zealand are indication that the Applicant is unable to satisfy its substantial market share from its own production, and whether imports from New Zealand are used by the Applicant to suppress the price level or other imports, in order to create the appearance of 'injury'; and
- if the imports from New Zealand were not included in "other imports", then did the Commission include those imports as part of Australian industry's market share

#### **8.10.1 The Commission's consideration**

The Commission clarifies that it has not included imports of galvanised steel from New Zealand with 'other imports' in its market analysis. The Commission has also not included imports from New Zealand as part of Australian industry's market share, profit and profitability analysis.

#### **8.10.2 Conclusion - volume trends**

The Commission notes that BlueScope increased its volume of galvanised steel sold during the injury assessment period and that BlueScope was able to capture an increased market share after anti-dumping measures were imposed against China, Korea and Taiwan in August 2013.

The Commission has also noted that BlueScope was able to gain market share in a growing market. The Commission notes, however, that the Australian industry was required to reduce its prices to compete with imports from the nominated countries in order to maintain its volume of sales and market share, hence while the Commission has not found that there is any volume injury to the Australian industry, this evidence supports the Australian industry's claims of injury in the form of lost profits and profitability.

### **8.11 Other economic factors**

BlueScope has also claimed that the Australian industry experienced injury in respect of other economic factors, including the following:

- reduced capital expenditure;
- reduced return on investment;
- reduced employment; and
- reduced revenues

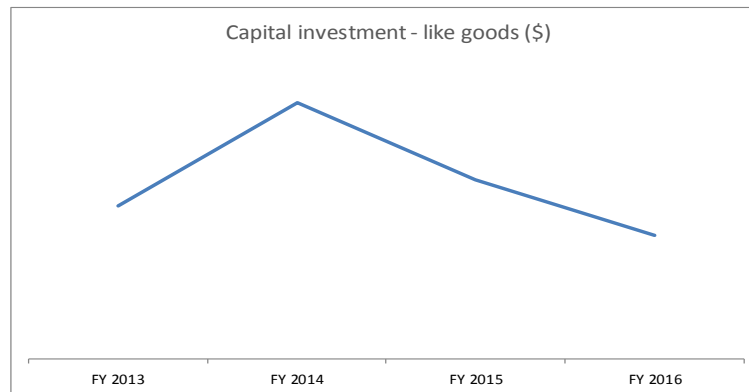
In support of its claim of injury, BlueScope provided information pertaining to other economic factors from FY2013 to FY2016. These factors were assessed as part of the Australian industry verification visit.<sup>47</sup>

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<sup>47</sup> Refer to Australian industry visit report on the Commissions website - EPR 370/55.

### **8.11.1 Reduced capital expenditure**

Figure 9 below shows the capital expenditure trend from FY2013 to FY2016.



**Figure 9– BlueScope’s Capital expenditure trend**

Figure 9 illustrates that after a sharp increase in capital expenditure in FY2014, capital expenditure has been declining and was below the FY2013 level during the investigation period. In its application, the Australian industry claims that the reduction in the expenditure has resulted in injury in the form of inadequate returns on investment for a capital-intensive industry such as steel making.

### **8.11.2 Reduced return on investment**

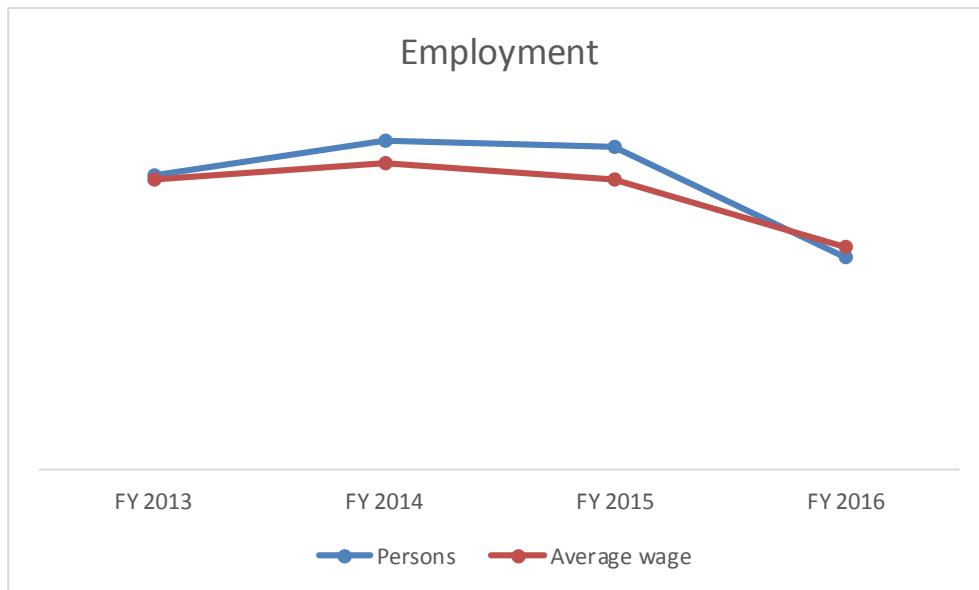
BlueScope’s return on investment has overall improved between FY2013 and FY2016. Although there was a steady improvement in the return on investment throughout the injury analysis period, it remained negative in the investigation period.

Based on above observations, the Commission considers that the Australian industry has experienced a reduced rate of return on investment.

While the return on investment improved during the investigation period, the Commission does not believe this, of itself, precludes a finding that negative return on investment has been experienced by the Australian industry.

### **8.11.3 Reduced employment numbers**

Figure 10 below illustrates number of employees and average wages since FY2013, relating to galvanised steel production has decreased overall, although there was a slight increase in FY2014.



**Figure 10– BlueScope’s employment trend**

Figure 10 illustrates that by the end of the period employment levels remained substantially lower, by about 28%, than the reported level in FY2013.

#### 8.11.4 Additional observations

In addition to the observations outlined above, the Commission has noted that the following injury indicators had mixed trends across the period FY2013 to FY2016:

- *capacity utilisation* - BlueScope’s capacity fluctuated slightly but generally remained at the same level throughout the injury analysis period. Overall BlueScope was able to increase capacity utilisation:
- *Productivity* - productivity (measured as tonnes per shift), has improved from FY2013 to FY2016:
- *capital investment* - Capital invested for galvanised steel decreased from FY2013 to FY2016: and
- *wages* - wages paid to employees involved in the production of galvanised steel declined during FY2013-FY2016

#### 8.11.5 Conclusion – other factors

The Commission considers that the price effects suffered by the Australian industry and the resulting injury in relation to lost profit and profitability have had an impact on other economic factors. Specifically, the Commission has found that over the injury assessment period:

- capital expenditure declined; and
- employment levels dropped

The Commission considers that the Australian industry has experienced injury in relation to these two factors and the following Chapter examines to what extent the injury found was caused by dumped and/or subsidised imports.

## **9. HAS DUMPING AND SUBSIDISATION CAUSED MATERIAL INJURY?**

### **9.1 Finding**

The Commissioner has found that injury to Australian industry has been caused by:

- dumped goods exported to Australia from Malaysia and Vietnam; and
- dumped and subsidised goods exported to Australia from India.

The Commissioner has found that this injury to Australian industry is material.

### **9.2 Introduction**

This Chapter examines whether galvanised steel exported to Australia from Malaysia and Vietnam at dumped prices, and galvanised steel exported from India at dumped and subsidised prices, has caused material injury to the Australian industry producing like goods.

Section 269TAE outlines the factors that the Parliamentary Secretary may take into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened.

The Commission has found that, during the investigation period, galvanised steel exported to Australia from;

- India was at dumped and subsidised prices;
- Malaysia was at dumped prices;
- Vietnam was at dumped prices;<sup>48</sup> and
- Vietnam was not at subsidised prices.

The Commission has also found that the Australian industry experienced price depression, price suppression, reduced profit and profitability, reduced capital expenditure and reduced employment.

### **9.3 Approach to assessing material injury**

The Commission has assessed material injury at both a macro and micro level and considered cumulatively the injurious effects of dumping and/or subsidisation from the nominated countries. Pursuant to subsection 269TAE(2C), the consideration of injury on a cumulative basis is appropriate where:

- the amount of the countervailable subsidy in respect of the goods the subject of each of the exportations exceeds the negligible level of countervailable subsidy worked out under subsection 269TDA(16); and

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<sup>48</sup> Two cooperating exporters were found not dumping

- the volume of those exportations is not negligible.

In considering the cumulative effect of these exportations, the legislation provides that it is relevant to have regards to:

- the conditions of competition between those goods; and
- the conditions of competition between those goods and like goods that are domestically produced.

The Commission considers that imported galvanised steel are like goods to the goods produced by the Australian industry. Both the imported goods and goods produced by the Australian industry have similar end-uses and compete in the same markets. These conditions of competition are such that it is appropriate to consider the cumulative injurious effect of the dumped imports from Malaysia and Vietnam together with dumped and subsidised imports from India.

### **9.3.1 Macro analysis**

In assessing whether material injury has been caused by dumping and/or subsidisation, the Commission conducted macro-analysis examining imports, market share, prices and industry performance across the Australian industry. In conducting this assessment, price undercutting has been assessed by comparing the price of imported and locally produced galvanised steel on the basis of pricing for the total grades of the goods and pricing by product categories. The Commission has also considered in its macro-analysis the effects of undumped imports, including imports from countries outside of the scope of the investigation.

### **9.3.2 Micro analysis**

Due to complexities in the galvanised steel market, including the range of products and different market segments, the Commission has conducted a micro analysis of the market. The micro analysis undertaken examined the injury and effects of dumping and/or subsidisation at a model-specific (grade) product level and within particular market sectors. Where possible, price undercutting has been undertaken by comparing the price of imported and locally produced galvanised steel by direct comparison of particular locally produced and imported models or grades and by market segment for major markets at a comparable level of trade where that information was available.

## **9.4 Size of the dumping and subsidy margins**

Subsections 269TAE(1)(aa) and (ab) state that in determining whether material injury has been caused by dumping and subsidisation, the Parliamentary Secretary may have regard to the size of each of the dumping and subsidy margins, worked out in respect of goods of that kind that have been exported to Australia at dumped and subsidised prices.

### **9.4.1 India**

As outlined in Sections 6.4 and 7.5.3 of this report, the Commission has found that during the investigation period:

- JSW Group exported the goods at dumped and subsidised prices. A combined rate of dumping and subsidy margin for JSW Group is 10.0%;
- Essar Steel exported the goods at dumped and subsidised prices. A combined rate dumping and subsidy margin for Essar Steel is 7.6%; and
- 'uncooperative and all other exporters' exported the goods at dumped and subsidised prices. A combined rate of dumping and subsidy margin for uncooperative and all other exporters is 14.3%.

#### **9.4.2 Malaysia**

As outlined in Section 6.4.5, CSCM was found to have exported galvanised steel to Australia from Malaysia during the investigation period at a dumping margin of 14.5%.

The uncooperative exporters and all other exporters were found to have exported the goods at a dumping margin of 16.5%.

#### **9.4.3 Vietnam**

As outlined in Section 6.11, CSCV was found to have exported galvanised steel to Australia from Vietnam during the investigation period at a dumping margin of 8.4%.

Hoa Sen and Nam Kim were found to be not dumping.

The uncooperative exporters and all other exporters were found to have exported the goods at dumping margin of 14.2%, and subsidy margin for all exporters was found to be *de minimus*.

### **9.5 Quantity of the dumped goods**

Subsection 269TAE(1)(a) states that in determining whether material injury has been caused by dumping and by subsidisation the Parliamentary Secretary may have regard to the quantity of goods of that kind that, during a particular period, have been or are likely to be exported to Australia from the country of export.

The Commission found that, during the investigation period the volume of dumped goods exported to Australia from Malaysia and Vietnam individually exceeded 3% of the total Australian import volume, and the volume of dumped and subsidised goods from India exceeded 4%. Therefore, the quantity of imports are not negligible as defined under subsections 269TDA(4) and 269TDA(8).

The Commission also noted that the dumped and subsidised exports collectively from India, Malaysia and Vietnam represent approximately 5% of the total Australian market. As outlined below, the Commission has found that this volume is sufficient to have effected BlueScope's pricing.

### **9.6 Cumulation of injury**

Subsection 269TAE(2C) of the Act sets out the requirements for assessing the cumulative effects of exports of goods to Australia from different countries. Where exports from more than one country are simultaneously the subject of anti-dumping

investigations, the Parliamentary Secretary may cumulatively assess the effects of such imports if:

- the investigations of those exports resulted from applications under section 269TB lodged with the Commissioner on the same day, or they resulted from applications under section 269TB lodged with the Commissioner on different days but the investigation periods for all the investigations overlap significantly;
- the margin of dumping or the amount of countervailable subsidy established for each country is not negligible;
- the volume of imports from each country is not negligible; and
- a cumulative assessment is appropriate in light of the conditions of competition between the imported goods and the conditions of competition between the imported goods and the like domestic goods.

Chapter 2 of this report outlines the background of this case and discusses that the alleged dumping and/or subsidy investigations were initiated on the same date, the investigation period was the same and the investigations were simultaneously initiated against India, Malaysia and Vietnam.

As discussed throughout this report, the margin of dumping for India, Malaysia and Vietnam and the amount of countervailable subsidy for India, is not negligible. The volume of imports from each of the three countries subject to the investigation is also not negligible. The goods imported from India, Malaysia and Vietnam directly compete with the like domestic goods.

As discussed at Chapter 5, the Commission has found that galvanised steel produced by the Australian industry and the respective imported goods are alike, have similar specifications, have similar end-uses, and compete in the same primary market sectors.

Based on the above assessment, the Commission considers that it is appropriate to consider the cumulative effect of the dumped and/or the subsidised imports.

#### **9.6.1 Submissions – Pre SEF**

JSW Group submitted that any injury from exports of galvanised steel from the three nominated countries should not be cumulated. JSW Group claims that Indian export (FOB) prices are higher than Malaysian and Vietnamese export prices.

#### **9.6.2 The Commission's assessment**

The Commission's assessment of cumulating injury from the three nominated countries is discussed above. The Commission has noted that while the goods have been imported at different FOB prices from the three nominated countries, the products were similarly priced when sold to the distributors and end users in the Australian market.

### **9.7 Submissions received in response to the SEF in relation to cumulation of injury.**

The Commission has received three submissions from three different exporters regarding the cumulation of injury. BlueScope provided a response to these submissions on 26



June 2017. A summary of each submission and the Commission's consideration is discussed below.

Public record version of all submissions are published on the Commission's website.<sup>49</sup>

*(i) JSW Group*

In its response to the SEF, JSW Group submitted that cumulating the effect of imports from India with imports from other countries the subject of the application is not appropriate based on the different conditions of competition. In its submission, JSW Group stated that the Indian exporters cooperating in this investigation represent very low volumes (15%) of the goods imported from these exporters in Australia during the investigation period compared to cooperating exporters from Malaysia (representing 98%) and Vietnam (representing 70%).

JSW Group also submitted that imports from India has decreased by 82% in FY2016 compared to FY2014, whereas the imports from Vietnam increased by 72% and from Malaysia increased by 520% in the same period. JSW group submitted that in addition to the dissimilarities in the import volumes of the three countries, the import volume from India are half the import volumes from Malaysia or Vietnam, which results in an insignificant (22%) market share of imports compared to the other two countries.

JSW submitted that India's market share in the total Australian demand during the investigation period was merely 1%. Furthermore JSW submitted that the import prices from India are significantly higher than Malaysia and India.

*(ii) Essar Steel*

In its response to the SEF, Essar steel stated that exports from India should not be cumulated with exports from Vietnam and Malaysia. Essar provided the following reasons and conditions of competition for the Commission's consideration:

- the volume of Indian imports is substantially lower than those of Malaysia and Vietnam;
- the volume of Indian imports has been decreasing sharply over the last three years, in contrast to increases in imports from Malaysia and Vietnam;
- the level of price undercutting by Indian exports is notably lower (3% to 7%) than Malaysia (2% to 13%) and Vietnam (6% to 24%);
- the steady market share of all other imports; and
- the Applicant itself imported the goods from India.

Essar stated that the inclusion of Indian imports in the investigation has bundled them together with imports that have a notably different effect on the market.

*(iii) China Steel Sumikin Vietnam Joint Stock Company (CSVC)*

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<sup>49</sup> [www.adcommission.gov.au](http://www.adcommission.gov.au).



In its response to the SEF, CSVC stated that it disagrees with the Commission's finding that the margin of dumping for Vietnam is not negligible. CSVC submitted that the Commission has not fulfilled its obligations in respect of establishing whether the margin of dumping in relation to imports from Vietnam were more than *de minimis*. CSVC claims that the assessment of the negligible margin of dumping has to be undertaken 'for each country', the Commission's assessment set out in the SEF appears to have incorrectly been performed using only the margins for the dumped exporters from Vietnam. CSVC claims that in order to properly establish the margin of dumping for Vietnam as a country, the Commission is required to calculate a weighted average dumping margin taking into account the negative margins of dumping for Hoa Sen and Nam Kim, and the positive margin of dumping for CSVC and any other investigated exporters from Vietnam. If it shows that the margin of dumping from Vietnam is *de minimis*, then the Commission is obliged to undertake a separate causal link assessment for Vietnam which does not include the effects of dumped imports from Malaysia and India.

(iv) *BlueScope*

In response to the above submissions, BlueScope submitted that:

- Essar Steel's suggestions that the dumped and subsidised imports from India are negligible and could not have contributed to injury suffered by the Australian industry is incorrect. BlueScope submitted that dumped and subsidised imports from India exceed negligible volumes of injury with non-negligible dumping margins and have been correctly cumulated with the injurious imports from Malaysia and Vietnam.
- JSW Group's submission arguing that imports from India has declined significantly compared to Malaysia and Vietnam is incorrect. BlueScope submitted that imports from India exceeded negligible volumes and negligible dumping margins and were considered by the Commission to compete directly with imports from Malaysia, Vietnam and the Australian industry, therefore the cumulation of imports from India with those from Malaysia and Vietnam is correct.

## **9.8 The Commission's consideration**

The Commission has considered all three submissions made in response to the SEF regarding cumulation of injury. The Commission has also noted BlueScope's responses to these submissions.

While the Commission does not disagree with JSW and Essar's submissions in relation to the decline in the volume of imports from India from FY2014 to FY2016, the dumped and subsidised volume of imports from India are above negligible levels (i.e. 4%) as required by the Act. As noted in the SEF, and also set out in this report,<sup>50</sup> all goods exported from India were dumped and subsidised. The dumping margins ranged from 7.6% to 12.0%

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<sup>50</sup> Subsection 9.9.4 of this report.

and subsidy margins ranged from 3.6% to 5.9%. The price undercutting by the Indian exporters was between 3% and 7%.

The Commission has also found that the conditions of competition between the imported goods and the conditions of competition between the goods imported from India, Malaysia and Vietnam and the like domestic goods are similar. The Commission also found that the Indian goods do not have a different effect on the market compared to the goods imported from Malaysia and Vietnam and those supplied by the Australian industry.

The Commissioner disagrees with CSVC's submission to establish the weighted average dumping margin for Vietnam as a country and that if the margin of dumping from Vietnam as a country is *de minimis*, then the Commission is obliged to undertake a separate causal link assessment for Vietnam which does not include the effects of dumped imports from Malaysia and India.

Subsection 269TAE(2C) of the Act relevantly states that in determining the effect of the exportations of goods to Australia from different countries of export, the Minister should consider the cumulative effect of those exportations only if the Minister is satisfied that the dumping margin worked out under section 269TACB for the exporter for each of the exportations is at least 2% of the export price or weighted average of export prices used to establish that dumping margin.

Pursuant to these provisions the Commissioner has cumulated the injury caused by the Vietnamese exporters whose dumping margins were found to be above negligible levels with the dumped goods from Malaysia and dumped and subsidised goods from India.

## **9.9 Pricing**

During the investigation period, the Commission found that the Australian industry experienced price depression, price suppression, reduced profit and profitability, reduced capital expenditure and reduced employment.

In assessing whether dumped imports and/or subsidised imports caused injury to the Australian industry, the Commission also examined price effects. In this case, the Commission has found that the Australian industry experienced price depression and price suppression.

Subsection 269TAE(1)(e) of the Act states that the Parliamentary Secretary may have regard to the difference between:

- (i) the price that has been, or is likely to be, paid for goods of that kind, or like goods, produced or manufactured in the Australian industry and sold in Australia; and
- (ii) the price that has been, or is likely to be, paid for goods of that kind exported to Australia from the country of export and sold in Australia.

This assessment is usually done via a price undercutting assessment.

In addition, subsection 269TAE(1)(f) states that the Parliamentary Secretary may have regard to the effect that the exportation of goods of that kind to Australia from the country

of export in those circumstances has had, or is likely to have, on the price paid for goods of that kind, or like goods, produced or manufactured in the Australian industry and sold in Australia.

In the sections below, the Commission examines the price effects of the dumped and/or subsidised imports on the Australian industry, firstly at a macro level and then at a micro level.

## **9.10 Macro analysis**

### **9.10.1 Import Parity Pricing**

The Australian industry claims import price offers are a key determinant of its prices and that it competes directly with the imported goods in the two major sectors (building and distribution) and two major grades as discussed in Chapter 5 of this report.

BlueScope provided the Commission with detailed IPP data (including its sources) and explained in detail the methodology it followed to determine prices for each sector during each month in the investigation period, and provided its monthly pricing decisions. These monthly pricing decisions related to 8 months of the investigation period. A pricing decision shows how the monthly import prices, together with other reference data such as volumes, are used to set a base price for particular models BlueScope competes with.

BlueScope stated that it collects import offers and other relevant data to determine its base galvanised steel price in advance based on what prices it expects to be competing with in the market. This timeframe allows BlueScope the opportunity to make offers, counter-offers and to negotiate the final price with its customers, before an order is placed, with delivery to customers at an expected date. The same time lag applies if the goods are imported, therefore, purchasers of galvanised steel make their decisions a number of weeks in advance and determine sourcing decisions at that time.

BlueScope also provided the Commission with the monthly proposed price that it publishes (price list), and the actual price it achieved for the base model and for the selected grade of the goods. BlueScope stated that it considers a particular monthly import price offer to be an 'effective threat' price offer by having regard to the supplier's volume, quality, and the price of the product. That is, an 'effective threat' price offer is one that is judged to have a capability to supply and is a price point they must seek to meet. BlueScope sets its own pricing accordingly.

The Commission notes that as a starting point, BlueScope generally based its initial prices on its IPP pricing strategy for the base model for a particular grade. BlueScope then negotiates individually with its customers to achieve final prices which may include 'extras' for a particular grade of galvanised steel for that month.

### **9.10.2 The Commission's assessment**

The Commission has examined how import offers influenced the benchmark IPP in each month of the investigation period. The Commission observed that the lowest IPP is not always the price that must be matched because, as noted, what becomes important is a judgement concerning the most 'effective threat' price offer. The Commission noted the months in which BlueScope followed price offers from countries other than the three

nominated countries, which include Korea and Taiwan. However, from the information provided, the Commission was able to identify that BlueScope's prices were similar to dumped and/or subsidised prices from some selected mills from the three nominated countries (i.e. India, Malaysia and Vietnam).

The Commission considers that during the investigation period, while BlueScope did not closely follow a particular mill and/or country, the IPP information and pricing strategy suggests that BlueScope's final price realised in each month during the investigation period closely correlates with the 'effective threat' import offer. The Commission noted the particular months in which the nominated countries set an "effective threat" import offer, thereby influencing BlueScope's price.

The Commission has therefore found that import prices drive BlueScope's prices, including dumped and subsidised imports.

Detailed IPP data and a summary of BlueScope's management decision for each month is set out at **Confidential Appendix 3**.

A confidential file note regarding the visit to BlueScope to discuss and verify IPP data and pricing methodologies is at **Confidential Attachment 3**.

#### **9.10.3 Price undercutting**

Price undercutting occurs when imported product is sold at a price below that of the Australian manufactured product at a comparable level of trade.

As discussed in Chapter 8.5 of this report, the Commission found that BlueScope experienced injury in the form of price depression and suppression during the investigation period. The Commission has therefore examined claims by BlueScope that dumped and/or subsidised imports from India, Malaysia and Vietnam have undercut its prices causing this injury.

In conducting this analysis, the Commission has compared weighted average free-into-store (FIS) prices in Australian dollars per tonne (AUD/T) of imported galvanised steel sold by importers, to BlueScope's delivered (FIS) net selling price (AUD/T), at a comparable level of trade. The Commission used verified data and other information provided by the Australian industry and data collected and verified by the Commission from cooperating importers and end-users.

The Commission also analysed data sourced from ABF's import database to compare the prices of imports from other countries including countries with current measures.<sup>51</sup>

#### **9.10.4 Distributors and End-users**

During the investigation, the Commission collected and verified import and sales data from four cooperating importers (distributors) and five cooperating end-users. The Commission compared the Australian industry's selling prices in the investigation period

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<sup>51</sup> In August 2013, anti-dumping measures were imposed against the goods exported by China, Korea and Taiwan.

with three of the four<sup>52</sup> importers, and five of the end-users, examining the goods exported from:

- India at dumped and subsidised prices;
- Malaysia at dumped prices; and
- Vietnam at dumped and undumped prices.

The Commission compared the weighted average FIS prices of galvanised steel with the importers (distributors) and end-users who sourced the goods from one or all three countries subject to this investigation during the investigation period. This comparison showed that during the investigation period Australian industry's price of galvanised steel were undercut by:

- Indian exporters between 3% and 7%;
- Malaysian exporters between 2% and 13%; and
- Vietnamese exporters<sup>53</sup> between 6% and 24%;

A detailed undercutting analysis is at **Confidential Appendix 4**

As discussed in Chapter 9.10.1, IPP forms the basis for Australian industry's pricing strategy. Therefore, it is not unexpected to find that the price of imports undercut Australian industry's prices, as Australian industry applies a premium on the price of imports for the benefits (such as production and delivery time, quality of goods, credit terms etc.) associated with local production of the goods.

The price of these imports can, however, apply downwards pressure on the Australian industry so that it is unable to raise its prices, leading to injury through price suppression and depression, which the Commission has found to be the case during the investigation period, as discussed below.

## **9.11 Micro analysis**

The Commission has found that a number of BlueScope's customers sourced the goods from more than one source, including a combination of imports (India, Malaysia and Vietnam), buying the same grades from import sources as were also sold by BlueScope. This suggests that the purchasers of galvanised steel in the Australian market are well informed about the sources from where they can import galvanised steel at competitive prices. It also suggests that the purchasers of galvanised steel have the ability to gather intelligence and compare prices of domestically produced product with imported like product. BlueScope provided evidence in relation to specific customers that showed the price of imports being used in negotiations.

The IPP data used for price setting and price negotiation with its customers provided by BlueScope, further demonstrates that the prices of imported galvanised steel are regularly used as leverage in price negotiations with Australian industry producing like

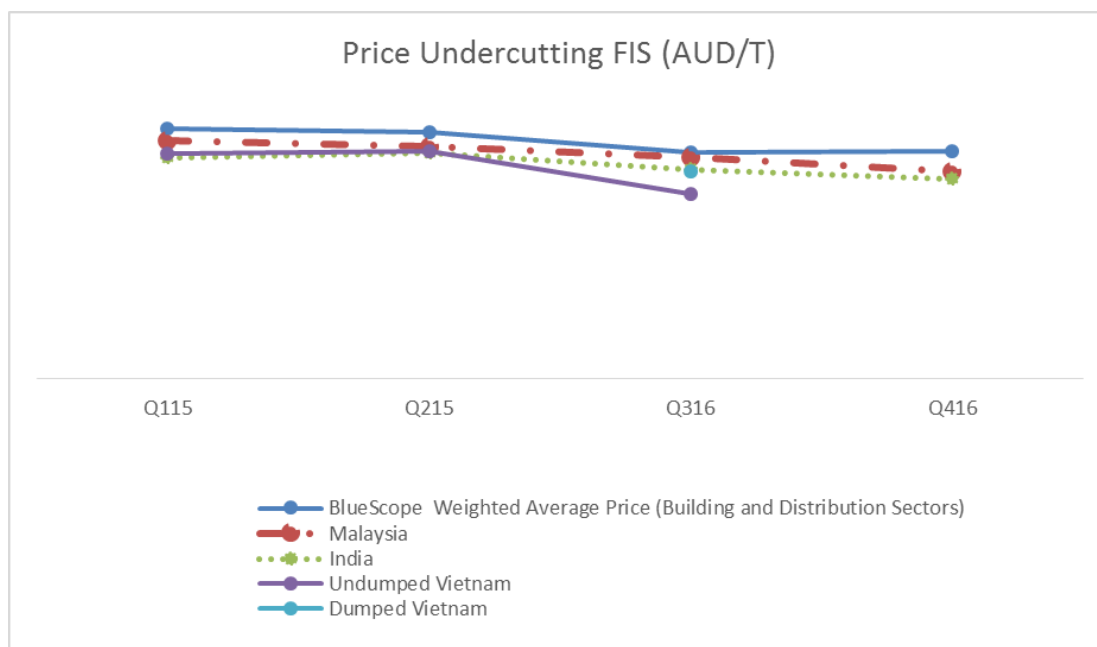
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<sup>52</sup> One of the four cooperating importers did not provide source countries of its imports, therefore the Commission excluded that importer's information from this analysis.

<sup>53</sup> Both undumped prices and dumped prices undercut BlueScope's prices.

goods and cause the Australian industry to reduce its selling prices in order to achieve sales.

The following graph compares BlueScope's galvanised steel prices for one of the major grades to import prices sourced from India, Malaysia and Vietnam.



**Figure 11: BlueScope's prices compared to import prices**

Figure 11 demonstrates that during the investigation period imports from all three countries, India, Malaysia and Vietnam, undercut BlueScope's prices. More detailed assessment by customer and grade demonstrates a similar result.

A detailed price undercutting analysis by different market sectors and grades is at **Confidential Appendix 5**. A detailed assessment by customer and grade is at **Confidential Attachment 4**.

## 9.12 Conclusion – Price

Based on the above information, the Commission has found that the Australian galvanised steel market is price sensitive, with BlueScope needing to take into account import prices in order to maintain sales. Given this price sensitivity, evidence of price undercutting, together with the IPP pricing strategy used by BlueScope and the evidence which shows that in some months in the investigation period dumped and/or subsidised import offers have influenced BlueScope's prices, the Commission is of the view that injury suffered by the Australian industry was caused by dumped and/or subsidised low priced imports from India, Malaysia and Vietnam. The injury suffered from these imports, targeting particularly the distribution and building sectors was material when assessed against the Australian industry's production as a whole. The materiality of the injury was based on the significance of the volumes supplied in these sectors.



The Commission has also examined other causes of injury as discussed below.

### **9.13 Injury caused by factors other than dumping**

Subsection 269TAE(2A) of the Act states that the Parliamentary Secretary must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods and states that any such injury or hindrance must not be attributed to the exportation of those goods.

The Commission has considered all factors outlined in subsection 269TAE(2A), and has also examined other potential causes of injury to BlueScope, other than dumped and/or subsidised goods exported from India, Malaysia and Vietnam.

During the course of the investigation the Commission has identified certain matters and a number of interested parties have made submissions about other factors that could have caused injury to the Australian industry as discussed below.

#### **9.13.1 Undumped Imports**

The Commission notes that other imports also played a role in the Australian market and has examined what impact these goods had on BlueScope, looking at both the IPP model and price undercutting.

#### **9.13.2 Import Parity Pricing**

As discussed above, the Commission notes that during the investigation period, BlueScope's IPP pricing model closely followed price offers from a number of sources, including Korea, Taiwan and undumped exports from Vietnam. An assessment of the data provided showed that in some months, these prices appear to have formed the basis of BlueScope's prices, contributing to BlueScope's price suppression and depression.

#### **9.13.3 Price undercutting**

The Commission also conducted a price undercutting assessment of these goods and imports from other sources. Specifically, the Commission compared Australian industry prices of galvanised steel with undumped galvanised steel imports as follows:

- from countries already subject to anti-dumping measures (being China, Korea and Taiwan);
- undumped galvanised steel exported to Australia from all other countries; and
- undumped galvanised steel from Vietnam.

An assessment of the export price of goods from China and Korea indicates that galvanised steel was priced at a similar level to those of the Australian industry.

Imports from Taiwan accounted for majority of the exports from these three countries (Taiwan has been the single largest exporter of the goods during the investigation

period), however only 50% <sup>54</sup> of total imports from Taiwan were directly competing with BlueScope as other imports were exempt from import duties due to tariff concession orders (TCO's) being in place. The Commission noted that the FIS price of the goods exported from Taiwan which were in direct competition with Australian industry were like goods to those produced by the Australian industry.

From the above analysis, the Commission found that galvanised steel exported from countries subject to current anti-dumping measures were not undercutting Australian industry's prices, although this analysis is less detailed than could be performed for the countries under investigation due to data limitations and the scope of the investigation.

In regards to Vietnam, the Commission noted that undumped galvanised steel from some exporters from Vietnam were undercutting Australian industry's prices. The Commission assessed each market sector, comparing these undumped FIS prices during the investigation with Australian industry's prices.

#### **9.13.4 Conclusion**

Based on the IPP model and the undercutting assessment, the Commission has found that undumped imports from Vietnam and imports from countries not subject to the investigation are also a cause of injury to the Australian industry. However, the Commission does not consider that this detracts from a finding that injury caused by dumped and subsidised imports is not negligible. The Commission is of the view that due to the number of months in the investigation period in which dumped and subsidised imports influenced BlueScope's pricing, injury suffered by BlueScope from these imports is material.

#### **9.13.5 The pipe and tube sector**

The Commission notes that BlueScope's pricing in pipe and tube sector is not based on the same IPP model used for the building and distribution sectors, therefore the Commission is unable to attribute any injury to the dumped and subsidised imports under investigation.

The Commission has found that injury in relation to pipe and tube sector was caused by factors other than dumping and subsidisation. However, this again does not detract from the finding that the injury caused by the dumped and subsidised imports was material.

#### **9.13.6 Other factors**

A number of interested parties made submissions to the Commission regarding the following other factors alleged to be affecting Australian industry's performance:

- as BlueScope is the sole domestic producer and supplier of galvanised steel, it has the majority of the market share for the goods and is attempting

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<sup>54</sup> The Commissioner has recently amended anti-dumping duties (measures) in relation to number of exporters of the goods from Taiwan (Rev 265 et.al refers).



to monopolise the Australian galvanised steel market by using anti-dumping measures;

- BlueScope's market share of domestic galvanised steel consumption has steadily increased since the initiation of this investigation, however due to its limited production capacity, BlueScope is unable to fulfil its supply orders on time. Therefore, BlueScope has itself imported galvanised steel from India post the investigation period to fulfil its supply orders;
- BlueScope did not respond to the decline in HRC prices, therefore BlueScope may have lost some market share to its competitors who are sourcing the goods from one or more of the three countries subject to this investigation;
- if dumping measures are put in place by the Commission, some interested parties stated that they will not be able to survive and will have to close their businesses leading to a loss of employment in Australia;
- BlueScope is using old machines and technology and this, together with the high cost of labour, is making BlueScope uncompetitive, hence causing injury to the Australian industry; and
- some interested parties import small quantities of galvanised steel from various countries (including India, Malaysia and Vietnam) and also purchase from BlueScope, as this in their view keeps BlueScope 'honest' and 'competitive'. Another stated reason to purchase from other countries is to check the prevailing international prices of the galvanised steel.

BlueScope has responded to concerns where public record versions of submissions were received and were published on the Commissions website.

The Commission notes that the above factors may have caused some injury to the Australian industry, however evidence is not available to the Commission to support a number of these claims.

## **9.14 Submissions - Pre SEF**

### **9.14.1 Export price**

JSW Group and Essar Steel from India and Hoa Sen from Vietnam, have claimed in separate submissions that the FOB export price by the respective exporter was not the lowest.

JSW Group, Essar Steel and Hoa Sen claimed that FOB export unit prices of some of the 'undumped' exports especially those from Taiwan, were lower than that from their own export prices. On this basis, they claimed that, given that BlueScope follows an IPP pricing strategy, which they claim was based on undumped sources from Taiwan, these undumped exports were responsible for Australian industry's price undercutting and hence injury.

### **9.14.2 The Commission's assessment**

The Commission's detailed price undercutting analysis is at Chapter 9.10.3 of this report. Based on this analysis, the Commission is satisfied that dumped and subsidised imports have caused injury to the Australian industry despite the presence of other imports into the Australian market.

### **9.14.3 BlueScope's profits**

A number of submissions from interested parties stated that the Australian industry is improving its financial performance and profitability. These submissions stated that BlueScope's unit profitability from their galvanised steel business has substantially improved from the beginning of injury analysis period to the end of the investigation period. They also stated that BlueScope's unit selling prices are only marginally lower than the unit cost to make and sell, hence the Australian industry has not suffered material injury during the investigation period.

Furthermore, the interested parties claim that BlueScope has managed to improve its profitability through cost cutting measures and rationalisation. Therefore BlueScope's ability to improve its profitability even if the goods were dumped and/or subsidised demonstrates that any injury suffered by the Australian industry was due to its own inefficiencies.

### **9.14.4 The Commission's assessment**

The Commission notes that the Australian industry's galvanised steel operation has improved during the injury analysis period, as evidenced by the reduced rate of loss in the galvanised steel. However, despite this improvement, the Australian industry's galvanised steel business continued to operate at a loss in the investigation period.

### **9.14.5 BlueScope's Distribution strategy**

The Commission received a number of submissions from various interested parties stating that the availability of galvanised steel products from BlueScope has been 'unreliable'. These interested parties have provided evidence of instances where BlueScope has not been able to meet its supply commitments.

Furthermore, some interested parties also claim that imposition of anti-dumping measures on imported galvanised steel from India, Malaysia and Vietnam will likely lead to further worsening of timely availability of galvanised steel in the Australian market.

### **9.14.6 The Commission's Assessment**

BlueScope's distribution strategy is discussed in Chapter 5.2.1 of this report. From the evidence provided, the Commission has noted that in some rare circumstances BlueScope was not able deliver the goods on time. On balance, the Commission finds that those circumstances where BlueScope were unable to meet supply were due to an unexpected high demand in those periods. The Commission has noted that the deliveries were delayed by approximately two weeks.

### **9.14.7 Automobile sector**

In its submission, Hoa Sen, has claimed that BlueScope's 'poor financial performance' may be related to the decline and shutdown of auto manufacturers in Australia. This is because '*Galvanneal*' and '*Zincanneal*', generic names for certain sub categories of the goods are used primarily in the automobile industry which has been declining over the recent years.

#### **9.14.8 The Commission's assessment**

The Commission's assessment of different sectors that the Australian industry sells the goods is set out at Chapter 9.10.3 of this report. From the information provided by the Australian industry, the Commission has noted that the automobile sector is relatively small compared to other sectors and has therefore only a minor impact on the overall analysis of whether material injury was caused by dumped and/or subsidised goods.

#### **9.14.9 Exports from Taiwan**

BlueScope has submitted that the conclusion of the Anti-circumvention investigation against certain Taiwanese exporters, has confirmed that not all exports from Taiwan during the investigation period of can be deemed as *undumped* and hence while comparing the FIS price of goods imported from countries subject to the current investigation with that of Taiwan, suitable adjustment should be made to reflect the dumping by certain Taiwanese exporters despite the prevailing measures in place against imports from that country.

#### **9.14.10 The Commission's assessment**

The Commission's assessment of the Taiwanese exports is set out in Chapter 9.13.3 of this report. The Commission has found that exports from Taiwan did not undercut Australian industry's prices, hence exports from Taiwan did not cause any injury to the Australian industry producing like goods during the investigation period.

### **9.15 The Commission's assessment - has dumping and subsidisation caused material injury?**

The Commissioner finds that, during the investigation period, BlueScope experienced price competition from dumped and subsidised goods from India, dumped goods from Malaysia and dumped/undumped goods from Vietnam.

After having regard to the relative prices and volumes of these goods, the Commissioner considers that the Australian selling prices of dumped and subsidised goods from India and dumped goods from Malaysia and Vietnam have influenced BlueScope's selling prices, and the prevailing market prices in Australia.

The Commission also took into account the specific evidence provided by BlueScope to substantiate examples where it faced pressure to lower its prices to compete with dumped and/or subsidised imported goods. This evidence demonstrates that while the Australian industry was able to increase its sales volume and market share, it faced aggressive price competition with dumped and/or subsidised goods from all three nominated countries subject to this investigation.

As discussed in Chapter 9.10.1 of this report, there is evidence to show that BlueScope generally sets its prices according to IPP. Therefore, while HRC prices have been depressed globally, the presence of dumped and/or subsidised imports in the market has further suppressed BlueScope's prices so that it is unable to increase its prices to the extent it would have if competing with undumped prices. This has particularly impacted BlueScope due to the increases in raw material prices globally.

## **PUBLIC RECORD**

Accordingly, the Commissioner is satisfied that the goods exported from India at dumped and subsidised prices and those exported from Malaysia and Vietnam at dumped prices caused BlueScope to experience injury by means of an inability to increase prices, and the adverse impacts on its profits.

### **9.16 Submissions received in response to the SEF in relation to material injury caused by dumping and subsidisation.**

The Commission has received four submissions from four different exporters<sup>55</sup> and a submission from the GOI in relation to the findings that the dumped goods from Malaysia and Vietnam and the dumped and subsidised goods from India caused material injury to the Australian industry. BlueScope provided a response to these submissions on 26 June 2017.

A public record version of all submissions have been published on the Commission's website.<sup>56</sup>

A summary of the issues submitted by the four exporter and the GOI are as follows:

- the imports from the countries the subject of the investigation (namely India, Malaysia and Vietnam) cannot be found to be responsible for the injury caused to the Australian industry based on the negligible volume of imports from these countries;
- imports of undumped goods from China, Korea and Taiwan<sup>57</sup> and undumped imports from Vietnam are likely causing injury to the Australian industry;
- the profit and profitability, volume of sales and market share of the Australian industry has improved in FY2016 compared to FY2014, hence no injury was caused to the Australian industry;
- the volume of imports under the investigation has overall decreased during the investigation period and was taken up by the Australian industry;
- the loss of employment did not adversely affect the productivity of the Australian industry. In fact the Australian industry was able to improve its productivity after losing some employees in the investigation period;
- while the SEF noted a loss in capital investment, the return on investment has been steadily increasing each year of the injury analysis period;
- the previous dumping investigation (INV 249) against India and Vietnam regarding the same goods was terminated on the grounds of negligible volume of exports and negligible injury found. It is submitted that the situation in this investigation is no different except that the Australian industry's performance has improved significantly;
- Australian industry is not capable of supplying the goods in Australia and has itself started importing the goods from India to fulfil its supply orders in Australia;
- the SEF does not properly consider and assess the reliability of BlueScope's costing information given the internal transfer of hot-rolled coil (HRC) and its impact on arms-length transactions;
- the SEF does not isolate the effects of the identified price premium on the price undercutting analysis; and
- Australian industry's own pricing behaviour has caused injury to itself. BlueScope's 'targeted' IPP based pricing decisions are not representative of

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<sup>55</sup> JSW Group and Essar Steel of India, CSCV of Vietnam and CSCM of Malaysia.

<sup>56</sup> [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>57</sup> In 2013, Anti-dumping measure was imposed on the goods imported from Korea and Taiwan. Anti-dumping and countervailing measures were imposed on the goods imported from China.

behaviour driven by price competition in the market. The development of a 'targeted' IPP policy is a tactic directed towards securing protection against import competition regardless of the merits of an anti-dumping investigation.

### BlueScope

In response to the above submissions, BlueScope submitted that:

- Essar Steel's submission that the injury caused by the dumped and subsidised goods from India is 'immaterial' is not correct. BlueScope submitted that Essar steel failed to address key price injury indicators (i.e. price depression and price suppression) that resulted in reduced profit and profitability per tonne;
- CSCV's claims regarding the 'overly simplistic and lacking necessary thoroughness analysis' for injury and causation, based on inadequate price undercutting analysis is not based on facts; and
- JSW Group's submission does not detail how Australian industry has suffered injury in the form of price depression and suppression which has impacted Australian industry's profit and profitability per tonne across the investigation period.

## **9.17 The Commission's consideration**

The Commission has considered all issues submitted in response to the SEF regarding material injury caused to the Australian industry by dumped and subsidised goods exported from India and dumped goods exported from Malaysia and Vietnam. The Commission has also noted BlueScope's responses to these submissions.

### *Volume of imports*

In the investigation, the Commission's assessment of the volume of dumped and/or subsidised imports has been done on a cumulative basis – considering all three countries under investigation together. The Commission has found that the total volume of dumped and/or subsidised goods did decline over the injury assessment period, but in the investigation period still accounted for 16% of the total imports. The Commission considers this is not immaterial. The Commission has also found that this volume was sufficient to affected pricing by BlueScope as discussed earlier in this Chapter.

### *HRC Internal transfer of prices*

The Commission disagrees with the assertion made by CSCV that BlueScope's internal transfer of HRC were not at arms-length. CSCV also questions the reliability of the costing information supplied by BlueScope. The Commission has relied on data and cost information (including detailed internal transfer of HRC prices) that was verified by the Commission. Details of the verification is contained in a report and in a file note that is published on the Commission's website.<sup>58</sup> The Commission therefore considers that CSCV's assertion without any evidence is baseless.

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<sup>58</sup> EPR 55 and 89 refers

*Price under-cutting analysis*

CSCV submitted that the Commission's price undercutting analysis is inadequate and that effects of the identified price premium has not been isolated. However, the Commission has taken into consideration the effects of the price premium in its price undercutting analysis. As noted earlier in this Chapter, price undercutting is only one element of the Commission's assessment of the effect of the prices of dumped and/or subsidised import which was taken into account in reaching a final conclusion.

*Comparison of finding in the current investigation with INV 249*

The Commissioner considers that it is not appropriate to compare the findings in the current investigation with INV 249. This is because the two investigations are independent of each other, have different investigation and injury analysis periods, including different types of investigations<sup>59</sup> and the current investigation includes an additional county (Malaysia) as being in scope. The findings in each of these investigations are based on the evidence available and on their own merits.

**9.18 Findings – has dumping and subsidisation caused material injury?**

The Commissioner is satisfied that, based on the information submitted in the application and verified data collected during its investigation, the dumping and subsidisation of galvanised steel exported to Australia from India and the dumping of galvanised steel exported to Australia from Malaysia and Vietnam, has caused material injury to the Australian industry producing like goods.

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<sup>59</sup> Current investigation includes subsidy investigations while INV 249 was only in relation to dumping investigation



## 10. WILL DUMPING, SUBSIDISATION AND MATERIAL INJURY CONTINUE?

### 10.1 Finding

The Commissioner has found that exports of galvanised steel from Malaysia and Vietnam in the future may be at dumped prices and from India at dumped and subsidised prices and that continued dumping and subsidisation may cause further material injury to the Australian industry.

### 10.2 Introduction

When the Parliamentary Secretary is satisfied that material injury to an Australian industry has been caused by dumping and subsidisation, anti-dumping measures and countervailing measures may be imposed on future exports of like goods if the Parliamentary Secretary is satisfied that the dumping and subsidisation and material injury may continue.

### 10.3 Will dumping continue?

The Commission's analysis shows that galvanised steel exported to Australia from India, Malaysia and Vietnam during the investigation period were at dumped prices with dumping margins ranging from 4%<sup>60</sup> and 16.5%.

The Commission notes that, even at its full capacity, the Australian industry is not able to fully supply the entire volume of the Australian galvanised steel market, and hence importations of the goods from India, Malaysia and Vietnam are likely to continue.

The Commission's assessment of ABF data, post investigation period (1 July 2016 to 30 June 2017), indicates that, when compared to the investigation period, the volume of dumped and/or subsidised good imported from:

- India has increased;
- Malaysia has slightly decreased;
- Vietnam has not changed; and
- Collectively, the three subject countries has decreased slightly.

The Commission also sought sales and cost data post the investigation period from the Australian industry for the period of 9 months (from 1 July 2016 to 31 March 2017). The information provided by the Australian industry indicates that it continues suffer material injury in the form of lost profit and profitability.

Considering the above factors existing in the Australian galvanised steel market, the Commission considers that dumping will continue if anti-dumping measures are not imposed.

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<sup>60</sup> after the removal of double count relation to export subsidies received by the Indian exporters.



#### **10.4 Will subsidisation continue?**

The Commission found that galvanised steel exported to Australia from India during the investigation period were subsidised, with subsidy margins ranging from 3.6% to 5.9%.

The Commission considers that no evidence exists to show that countervailable subsidisation of Indian galvanised steel products will cease in the future and it is therefore considered that galvanised steel exporters will likely continue to receive financial contributions under at least some of the identified countervailable subsidy programs. It is therefore considered that subsidisation will continue in the future.

Considering the above factors, the Commission considers that goods exported from India will continue to be subsidised if countervailing measures are not imposed.

#### **10.5 Will material injury continue?**

The Commissioner has reviewed the Australian industry's performance over the injury analysis period and has made a finding that galvanised steel exported at dumped and subsidised prices have caused material injury to the Australian industry.

The Commissioner considers that a continuation of price competition from dumped imports from India, Malaysia and Vietnam and subsidised imports from India are likely to have a continuing adverse impact on the Australian industry. The Commission considers that this impact may be particularly evident in price undercutting, reduced profits and profitability, reduced capital expenditure and reduced employment.

Based on the available evidence, the Commissioner finds that exports of galvanised steel from India, Malaysia and Vietnam at dumped and/or subsidised prices and that continued dumping and subsidisation may cause further material injury to the Australian industry.

#### **10.6 Submissions received in response to the SEF in relation to continuation of material injury suffered by BlueScope.**

Essar Steel and CSCV submitted that the Commission should assess data post investigation period to determine if material injury to the Australian industry will continue.

#### **10.7 The Commission's consideration**

The Commissioner's consideration of the post investigation information is at Chapter 10.3 of this report.

## 11. NON-INJURIOUS PRICE

### 11.1 Finding

The Commission has found that the non-injurious price (NIP) for dumped and/or subsidised goods from India, Malaysia and Vietnam is not lower than the normal value. As a result, the lesser duty rule has no effect and duties are to be imposed at the full margin of dumping.

### 11.2 Relevant legislation

Duties may be applied where it is established that dumped and subsidised imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty and countervailing duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping and subsidisation, but the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if it is sufficient to remove the injury.

Under subsections 269TACA(a) and 269TACA(b), the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, or to remove the hindrance to the Australian industry caused by the dumping and/or subsidising of the goods.

However, pursuant to Section 8(5BAAA) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. One of these circumstances are cases in which a countervailable subsidy has been received in respect of the goods—the country in relation to which the subsidy has been provided has not complied with Article 25 of the *Agreement on Subsidies and Countervailing Measures* (SCM) for the compliance period.<sup>61</sup>

### 11.3 Approach to establishing the NIP

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

The Commission's preferred approach to establishing the USP, as outlined in chapter 23 of the Manual, observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS plus profit; or

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<sup>61</sup> Article 25 of the SCM Agreement requires that WTO members are to notify the WTO of any specific subsidies (as defined in Articles 1 and 2) that are granted or maintained within their territories.

- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

#### **11.4 Submissions received in response to the SEF regarding the NIP and consideration of lesser duty rule.**

The Commission has received two submissions regarding the NIP and consideration of the lesser duty rule.

##### *Non-injurious price*

Australian industry submitted that it agrees with the Commission's assessment that in a market unaffected by dumping and/or subsidisation, it should be able to achieve (as a minimum) selling prices that reflect undumped and unsubsidised import parity pricing levels. BlueScope also requested that the Commissioner recommend to the Parliamentary Secretary that the FOB NIP for each exporter be determined at the exporter's respective normal value.

##### *Lesser duty rule*

The JSW Group submitted that none of the factors set out under section 8(5BAAA) of the Dumping Duty Act are applicable, therefore the Commission is mandated to determine duty under section 8(5BA) of the Dumping Duty Act. JSW Group submitted that as a result, the Commission must determine the lesser amount of duty than the full dumping or subsidy margin where the imposition of that lesser amount is adequate to remove injury, in respect of imports from the countries subject of the application.

#### **11.5 The Commission's consideration**

The Commission has assessed the submissions received, its policy on calculating the NIP and the facts of this particular case. The Commission has considered lesser duty in relation to all countries subject to the investigation, including India.

The Commission considers that in this instance determining the NIP based on industry's selling prices in a period unaffected by dumping is not appropriate due to the number of previous dumping cases for this product, including findings of circumvention of anti-dumping measures.

The Commission also considers that a constructed price based on BlueScope's production costs incurred during the investigation period plus an amount for profit is not appropriate for similar reasons. The Commission is unable to determine an appropriate amount for profit based on historical data and no information on an appropriate amount of profit has been provided by any interested party.

The Commission has next considered whether the selling price of undumped imports into the market is an appropriate basis for the NIP – noting that two exporters from Vietnam were found not to be dumping, and that there are imports in the market from other

sources. After assessing this option, the Commission has concluded that this would be insufficient to prevent injury caused by dumping. In the course of this investigation it has been found that BlueScope assesses a number of different price offers into the market in setting its price and does not necessarily set it according to the lowest price, taking into consideration factors such as the supplier's volume and quality. Indeed, in this case, the Commission has found that dumped and/or subsidised imports have caused injury to BlueScope despite the presence of undumped and in some cases, lower priced, imports into the market.

The Commission then considered an alternative method of determining the NIP, as argued by BlueScope, that the NIP should be based on the undumped and/or unsubsidised price for each exporter. The Commission considers that in a market unaffected by dumping/subsidisation, it is reasonable to expect that BlueScope would continue to set its prices with regard to benchmarked import prices, and its method for assessing these prices collectively would continue. The Commission therefore considers that setting the NIP at an undumped/unsubsidised FOB price is the most effective way to remove the effects of dumping and subsidisation.

## **11.6 Conclusion**

The Commissioner has determined that the most appropriate NIP in this case is the undumped and/or unsubsidised FOB export price for each exporter. As duty set at this level would be equal to that collected under the dumping margin, the lesser duty rule does not come into effect.

The Commission's NIP calculations are at **Confidential Appendix 7**.

## 12. PROPOSED FORM OF MEASURES

### 12.1 Finding

The Commissioner recommends to the Parliamentary Secretary that measures be imposed:

- Subsidy: a combination of a proportion of the export price and a measure of the quantity; plus
- Dumping: a combination of fixed and variable duty method, minus an amount for the subsidy rate applying to export subsidy programs (where this has been received by the exporter or group of exporters).

An amount of duty worked out to be the fixed duty element of the combination duty is to be ascertained as a proportion of the export price.

### 12.2 Form of measures available

The forms of duty available when implementing measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method (combination method);
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (i.e. a percentage of the export price).

### 12.3 Form of securities applied following PAD 370

Following publication of PAD 370, the Commonwealth took securities in respect of IDD that may become payable on goods exported from India, Malaysia and Vietnam and ICD that may become payable on goods exported from India. The securities were worked out in accordance with the combination method.

### 12.4 Combined measures

Noting the above recommendation that the lesser duty rule not be applied, the Commissioner proposes to recommend that the level of ICD proposed for galvanised steel exported from India be the full margin of countervailable subsidisation in the case of all exporters.

In relation to IDD, the Commission notes that in the case of galvanised steel from India, the calculation of combined dumping and countervailing duties is not simply a matter of adding the reported dumping and subsidy margins together for any given exporter, or group of exporters. This is due to the fact that the Commissioner recommends that the duties implemented include:

- the subsidy rate calculated for all countervailable programs; and
- the dumping rates calculated, less the amount for the subsidy rate applying to export subsidy programs (where this has been received by the exporter or group of exporters).

This approach avoids any overlap or double-counting that may arise from the circumstances of this case where there are export subsidies and a dumping margin which itself also reflects the export subsidies.

## **12.5 Submissions received in response to the SEF in relation to form of measures and contemporary variable factors.**

The Commission has received one submission from the Australian industry in relation to the form of measures and contemporary variable factors.

### *Form of measures*

The Australian industry submitted that it concurs with the Commission's proposed form of measures in the SEF. The Australian industry considers that the combination form of measures to be applied in the current case would be consistent with the form of measures that already apply to exporters of galvanised steel from China, Korea and Taiwan.

### *Contemporary variable factors*

The Australian industry submitted that because the investigation extended by almost twelve months following the end of investigation period (30 June 2016), there had been a dramatic and sustained increases in domestic and export selling prices for the goods, driven by substantial rises in raw material costs (most notably, iron ore, coking coal, HRC, zinc and aluminium).

BlueScope submitted that during the period of the Commission's investigation (some twelve months following the end of the case investigation period), there had been dramatic and sustained increases in domestic and export selling prices for the goods, compared with those of the case investigation period, driven by substantial rises in raw material costs (most notably, iron ore, coking coal, HRC, zinc and aluminium). According to BlueScope this was in contrast to raw material prices being at record, decade-long, lows during the case investigation period.

The recovery in raw material prices was said to have been driven by changes in China's domestic policy for hard coking coal (HCC) operating licences and increased demand with recent price levels forecast to remain stable. To support its claims, BlueScope provided confidential charts to demonstrate its claims.

BlueScope submitted that it is concerned that the determination of variable factors based upon the case investigation period will deliver measures that are manifestly inadequate to address dumping and injury to the Australian industry. BlueScope submitted that the Commission must reflect the contemporary prices that have occurred in the twelve month period following the case investigation period.

## **12.6 The Commission's consideration**

### *Form of measures*

The Commission has noted Australian industry's comments supporting the form of measures proposed in the SEF. This is the 'combination of fixed and variable duty method' which uses an 'ascertained export price' based on the data obtained in the investigation period. The legislation provides for three other different forms of measures, one of which is an ad valorem method which is recognised as being more suited to conditions of changing prices. Some implications will always be associated with selecting a particular form of a measure, such as the combination method, which does not so easily cater for changed circumstances.

### *Contemporary variable factors*

The Commissioner agrees that the raw material prices were low during the investigation period.

The Commission examined the evidence available from BlueScope and several other sources and considers that there is insufficient evidence available that the current levels of pricing are likely to be sustained. As such, the Commission considers that there is no evidence that the more recent levels of prices which BlueScope refers to in its submission are likely to be more representative (over the foreseeable future life of the measures) than the prices examined in the investigation period.

Analysis undertaken by the Commission indicates that there is a good chance that the prices of the main inputs to coated steel production (coking coal, iron ore, and HRC) will fall over the next 18 months from current levels and the recent increases seen in coking coal prices were caused by Government action taken in China that has since been reversed.

Based on the above assessment, the Commissioner considers that it is not appropriate to consider information for the twelve-month period following the investigation period involving exports of galvanised steel from India, Malaysia and Vietnam, as part of considering some form of adjustment to the variable factors of the combination measure.



### 13. RECOMMENDATIONS

The Commissioner is satisfied that:

- the dumped galvanised steel exported to Australia from Malaysia and Vietnam; and
- the dumped and subsidised galvanised steel exported to Australia from India

has caused material injury to the Australian industry producing like goods.

**The Commissioner recommends the Parliamentary Secretary publish:**

- a dumping duty notice on galvanised steel exported to Australia from India, Malaysia and Vietnam (other than Hoa Sen and Nam Kim); and
- a countervailing duty notice on galvanised steel exported to Australia from India.

**The Commissioner recommends the Parliamentary Secretary be satisfied that:**

- *in accordance with subsection 269TAAD(1)*, some like goods were sold in India, Malaysia and Vietnam in sales that are arms length transactions in substantial quantities during an extended period for home consumption in India, Malaysia and Vietnam at a price less than the cost of such goods and it is unlikely that the seller of the goods was able to recover the cost of such goods within a reasonable period, the price paid for the goods is taken not to have been paid in ordinary course of trade;
- *in accordance with subsection 269TAB(3)*, that sufficient information has not been furnished, or is not available, to enable the export price of galvanised steel exported to Australia from India, Malaysia and Vietnam by the category of 'uncooperative and all other exporters' be determined under subsection 269TAB(1);
- *in accordance with subsection 269TAC(6)*, sufficient information has not been furnished or is not available to enable the normal value of galvanised steel exported to Australia from India, Malaysia and Vietnam by the category of 'uncooperative and all other exporters' to be ascertained under subsections 269TAC(1), (2), or (3);
- *in accordance with subsection 269TACD(1)*, countervailable subsidies have been received in respect of galvanised steel by JSW Group, Essar Steel and the category of 'uncooperative and all other exporters' from India;
- *in accordance with subsection 269TAE(2C)*, the cumulative effect of exportations of galvanised steel from India, Malaysia and Vietnam can be considered because:
  - each of the exportations is the subject of an investigation;
  - the investigations of those exportations resulted from applications lodged with the Commissioner on the same day;
  - the margin of dumping from India, Malaysia and Vietnam (other than Hoa Sen and Nam Kim) and the amount of countervailable subsidy from India established for each country is not negligible;
  - the volume of imports from each country is not negligible; and



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- a cumulative assessment is appropriate in light of the conditions of competition between the imported goods and the conditions of competition between the imported goods and the like domestic goods.
- *in accordance with subsection 269TG(1)*, the amount of the export price of galvanised steel exported to Australia from India, Malaysia and Vietnam is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods would have been caused if security under section 42 had not been taken;
- *in accordance with subsection 269TG(2)*, the amount of the export price of galvanised steel that has already been exported to Australia from India, Malaysia and Vietnam is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia from India, Malaysia and Vietnam in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods is being caused;
- *in accordance with subsection 269TACC*, financial contributions have been provided by the Government of India that have conferred a benefit in respect of the goods;
- *in accordance with subsection 269TJ(1)*, countervailable subsidies been received in respect of galvanised steel exported to Australia from India and because of that, material injury to the Australian industry producing like goods would have been caused if security under section 42 had not been taken;
- *in accordance with subsection 269TJ(2)*, countervailable subsidies have been received in respect of galvanised steel that has been already exported to Australia from India and that may be exported to Australia from India in the future and because of that, material injury to the Australian industry producing like goods is being caused;
- *in accordance with subsection 269TJA(1)*, in respect of the galvanised steel that have been exported to Australia from India:
  - the export price of the goods is less than the amount of the normal value of the goods; and
  - countervailable subsidies have been received in respect of the goods; and
  - because of the combined effect of the two, material injury to the Australian industry producing like goods is being caused;
- *in accordance with subsection 269TJA(2)*, in respect of the galvanised steel that has *already* been exported to Australia from India;
  - the export price of the goods is less than the amount of the normal value of the goods and the amount of the export price if the goods are exported to Australia in the future may be less than the normal value of the goods; and
  - countervailable subsidies have been received in respect of the goods and may be received in respect of like goods that may be exported to Australia in the future; and

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- because of the combined effect of the two, material injury has been caused to the Australian industry producing like goods.

### **The Commissioner recommends the Parliamentary Secretary determine:**

- having had regard to subsections 269TAAC(2) and (3), and in accordance with subsections 269TAAC(4) and (5), that the subsidies listed in section 7 of this report are specific having regard to the information provided by cooperating exporters and responses provided by the Government of India;
- in accordance with subsection 269TAAD(4), and for the purpose of working out the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arms length transactions and are taken to have been in the ordinary course of trade, that the amounts for the cost of production or manufacture of galvanised steel in India, Malaysia and Vietnam and the administrative, selling and general costs associated with the sale of those goods are as set out in Confidential Appendix 5;
- being satisfied that in accordance with subsection 269TAB(1)(a), that the export price of galvanised steel exported to Australia from:
  - India by JSW Group and Essar Steel;
  - Malaysia by CSCM;
  - Vietnam by CSCV; and
  - 'uncooperative and all other exporters' category from India, Malaysia and Vietnam;

is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation, as set out in Confidential Appendix 5;

- in accordance with subsection 269TAB(3), having regard to all relevant information, that the export prices for galvanised steel exported to Australia from:
  - India by JSW Group and Essar Steel;
  - Malaysia by CSCM;
  - Vietnam by CSCV; and
  - 'uncooperative and all other exporters' from India, Malaysia and Vietnam

are as set out in Confidential Appendix 5;

- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in sales that are arms length transactions, that the normal value of galvanised steel exported to Australia from:
  - India by JSW Group and Essar Steel;
  - Malaysia by CSCM; and
  - Vietnam by CSCV,

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Is the price paid or payable for like goods as set out in Confidential Appendix 5, as adjusted in accordance with subsection 269TAC(8);

- in accordance with subsection 269TAC(8), that, as the normal value of galvanised steel exported to Australia is the price paid or payable for like goods sold in India, Malaysia and Vietnam, the normal value be adjusted for specified differences between like goods sold in India, Malaysia and Vietnam and export sales, as set out in Confidential Appendix 5;
- in accordance with subsection 269TAC(6), having regard to all relevant information, that the normal values for the category of 'uncooperative and all other' exporters from India, Malaysia and Vietnam is as set out in Confidential Appendix 5;
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
  - that galvanised steel exported to Australia from the India, Malaysia and Vietnam (other than Hoa Sen and Nam Kim) are taken to have been dumped over the investigation period; and
  - the dumping margins for exporters in respect of those goods in the period is the difference between the weighted average of export prices of those goods and the weighted average of corresponding normal values, as set out in Confidential Appendix 5;
- in accordance with subsection 269TACC(1), having regard to all relevant information and subsections 269TACC(2) and (3), the information provided in exporter questionnaire responses by cooperating exporters and responses provided in the government questionnaire by the Government of India confers a benefit;
- in accordance with subsection 269TACD(1), that the amount of countervailable subsidy received in respect of galvanised steel by all exporters from India being expressed as a percentage of the ascertained export price, ranges from 3.6 percent to 5.9 per cent, as set out in Confidential Appendix 5;
- in accordance with subsection 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of galvanised steel exported to Australia from India, Malaysia and Vietnam (other than by Hoa Sen and Nam Kim) is an amount which will be worked out in accordance with the fixed and variable (combination) method pursuant to subsections 5(2) and 5(3) of the *Customs Tariff (Anti-Dumping) Regulation 2013*; and
- in accordance with subsection 10(3B)(c) of the Dumping Duty Act, that the interim countervailing duty payable in respect of galvanised steel exported to Australia from India is to be ascertained by reference to a combination of a proportion of the

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export price of those particular goods and a measure of the quantity of those particular goods.

### **The Commissioner recommends the Parliamentary Secretary declare:**

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
  - like goods exported by all exporters from India, Malaysia and Vietnam (except Hoa Sen Group and Nam Kim) to Australia; and
  - like goods exported to Australia by all exporters from India, Malaysia and Vietnam after the Commissioner made a PAD under section 269TD on 31 May 2017, but before publication of the notice;
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from India, Malaysia and Vietnam (except Hoa Sen Group and Nam Kim), after the date of publication of the notice;
- in accordance with subsection 269TJ(1), by public notice, that section 10 of the Dumping Duty Act applies to (subject to section 269TN);
  - galvanised steel exported from the India, and
  - like goods that were exported to Australia from India, after the Commissioner made a PAD under section 269TD on 31 May 2017, but before publication of the notice; and
- in accordance with subsection 269TJ(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from India, after the date of publication of the notice.

### **The Commissioner recommends that the Parliamentary Secretary have regard to:**

- in accordance with subsection 8(5B)(b) of the Dumping Duty Act, to the desirability of specifying a method such that the sum of amounts outlined in subsection 8(5B)(c) and (d) of the Dumping Duty Act as they relate to India, Malaysia and Vietnam do not exceed the non-injurious price, in light of the findings at chapter 11 that the non-injurious price of goods of that kind as ascertained or last ascertained is greater than the normal value of goods of that kind as so ascertained or last so ascertained, and noting that in such circumstances the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser rate of duty;
- in accordance with subsection 8(5BA), in relation to galvanised steel exported to Australia from India, Malaysia and Vietnam (other than by Hoa Sen and Nam Kim), the desirability of specifying a method such that the sum of the amounts outlined in subsections 8(5BA)(c), (d) and (e) do not exceed the non-injurious price; and
- in accordance with subsection 10(3D), in relation to interim countervailing duty in respect of galvanised steel exported to Australia from India, the desirability of fixing the amount of interim countervailing duty in respect of the goods such that

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the sum of the amounts outlined in subsection 10(3D)(a), (b) and (c) do not exceed the non-injurious price.

<b>APPENDICES AND ATTACHMENTS</b>
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<b>Confidential Appendix 1</b>	Assessment of Australian market size
<b>Confidential Appendix 2</b>	Assessment of galvanised steel sales by different market sectors
<b>Confidential Appendix 3</b>	Assessment of IPP data
<b>Confidential Appendix 4</b>	Price undercutting analysis
<b>Confidential Appendix 5</b>	Export price, normal value and dumping margin calculations
<b>Confidential Appendix 6</b>	Price undercutting analysis by different market sectors
<b>Confidential Appendix 7</b>	USP and NIP Assessments
<b>Confidential Attachment 1</b>	Assessment of JSWSL and JSWC as a single exporter
<b>Confidential Attachment 2</b>	Assessment of FIW Steel's response to the exporter questionnaire
<b>Confidential Attachment 3</b>	File Note - Assessment of IPP strategy
<b>Confidential Attachment 4</b>	Assessment by different market sectors
<b>Confidential Attachment 5</b>	Assessment of upstream subsidies - India
<b>Non-Confidential Attachment 1</b>	List of submissions received from interested parties
<b>Non-Confidential Attachment 2</b>	Assessment of a particular market situation in Vietnam
<b>Non-Confidential Attachment 3</b>	Assessment of subsidy programs - India

## NON-CONFIDENTIAL ATTACHMENT 1 – SUBMISSIONS

The following submissions were received by the Commission before the publication of SEF 370.

Date Submission Received	Interest Party	Subject	EPR No.
12 October 2016	BlueScope	BlueScope claimed in this submission that the United States of America's Department of Commerce has initiated an anti-circumvention inquiry against certain Chinese exporters exporting certain steel products through Vietnam after minor processing and that the Commission should consider this.	18
28 November 2016	Moulis Legal on behalf of Essar Steel	Essar claimed that BlueScope's application for reinvestigation is frivolous given 'no injury' findings of previous investigation and BlueScope's improved financials since then. Essar also sought an extension to the deadline to submit the response.	38
29 November 2016	BlueScope	BlueScope made submissions with regard to the basis used for deriving the unsuppressed selling price and forms of measures.	39
02 December 2016	BlueScope	BlueScope provided a briefing on the Malaysia verification visit.	47
02 December 2016	BlueScope	BlueScope provided a submission on Product Control Number classification.	48
21 January 2017	TWM Global on behalf of Cedex Steel	<p>Cedex in its submission claimed that:</p> <ul style="list-style-type: none"> <li>• BlueScope's financials have improved significantly, undermining the injury claims;</li> <li>• BlueScope's was unable to meet the timely delivery commitment to its buyers;</li> <li>• BlueScope imported galvanised steel through its New Zealand arm as it could not meet its supply commitments;</li> <li>• the quoted price from exporters under investigation is not the</li> </ul>	62

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		<p>lowest, undermining the price undercutting argument; and</p> <ul style="list-style-type: none"> <li>• BlueScope's distribution network puts an additional cost/margin burden on SME buyers.</li> </ul>	
30 January 2017	BlueScope	<p>BlueScope made a submission that:</p> <ul style="list-style-type: none"> <li>• provided instances of price undercutting by imports;</li> <li>• quantified the injury by imports from countries under consideration; and</li> <li>• stated its capacity to supply galvanised steel in Australia</li> </ul>	60
13 February 2017	Moulis Legal on behalf of Essar Steel	<p>Essar Steel in its submission stated that:</p> <ul style="list-style-type: none"> <li>• Investigation No. 249 showed that Taiwan import prices undercut those from India and other countries under investigation;</li> <li>• the financial position of BlueScope has improved significantly;</li> <li>• the injury analysis should factor in the effect of imports from undumped sources;</li> <li>• New Zealand exports to Australia should be considered for analysis as they are from BlueScope's New Zealand operations;</li> <li>• there should be no cumulating of injury;</li> <li>• there has been a declining volume trend of imports from India; and</li> <li>• regard should be had to the evidence of BlueScope's imports of galvanised steel from an Indian cooperative exporter post the investigation period.</li> </ul>	63



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10 February 2017	Hoa Sen	<p>Hoa Sen in its submission stated that:</p> <ul style="list-style-type: none"> <li>the financial position of BlueScope has improved significantly;</li> <li>in response to BlueScope's submission, that United States of America's Department of Commerce anti-circumvention investigation has no relevance, as hot rolled coil to galvanised steel conversion is not a 'minor modification';</li> <li>market situation allegations against Vietnam are not valid;</li> <li>'Zincalume' should be considered as the goods to determine injury to BlueScope;</li> <li>BlueScope's market share in domestic galvanised steel market is even higher after factoring in exports from New Zealand; and</li> <li>BlueScope's export of HRC to Vietnam and other countries should be considered as part of the analysis of economic conditions.</li> </ul>	64
10 February 2017	BlueScope	<p>BlueScope made a submission on the alleged 'market situation' in Vietnam, stating that:</p> <ul style="list-style-type: none"> <li>China is the source of the majority of HRC to Vietnamese galvanised steel exporters and a market situation finding was made for the Chinese market; and</li> <li>the Government of Vietnam policies have an impact on Vietnamese steel prices.</li> </ul>	65
14 February 2017	BlueScope	BlueScope provided a presentation to the Commission on the Chinese and Vietnamese Steel markets.	66-69
10 March 2017	BlueScope	BlueScope submitted that the Commission ensure that related party purchases by CSC is analysed at a full cost recovery basis.	71

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10 March 2017	BlueScope	<p>BlueScope responded to Hoa Sen's submission on the following issues:</p> <ul style="list-style-type: none"> <li>• that the improved financials of BlueScope are mainly due to overseas operations and not the Australian steel business arm;</li> <li>• the Commission should cumulate the injury from the investigated countries;</li> <li>• material injury; and</li> <li>• non-injurious price.</li> </ul>	72
3 April 2017	Moulis Legal on behalf of Essar Steel	<p>Essar Steel made submissions on following points:</p> <ul style="list-style-type: none"> <li>• BlueScope's improving financials;</li> <li>• BlueScope's 'Import Parity' pricing may be responsible for injury;</li> <li>• price trends post the investigation period should be considered; and</li> <li>• Aluminium zinc coated steel should be considered in the goods definition.</li> </ul>	74
28 March 2017	L&S Attorneys on behalf of JSW Group	<p>JSW Group made submissions on following issues:</p> <ul style="list-style-type: none"> <li>• the treatment of subsidy programs;</li> <li>• the small export volume of goods from India to Australia and their higher prices compared to that of Malaysia and Vietnam;</li> <li>• no cumulating should occur in relation to the determination of injury as the volume trends and price ranges differ for the three countries;</li> <li>• BlueScope's stated position that it has improved profitability through restructure, which the JSW Group considers points to internal causes for injury;</li> <li>• material injury could have been due to circumvented goods from China, Korea and/or Taiwan investigated in the anti-circumvention investigation; and</li> <li>• Free-on-Board prices from India are higher than that of Malaysia and Vietnam.</li> </ul>	75

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11 April 2017	BlueScope	BlueScope responded to Essar's submission by providing a submission on: <ul style="list-style-type: none"> <li>• its financial improvement not owing to domestic steel operations;</li> <li>• injury claims; and</li> <li>• the lack of evidence that aluminium zinc coated steel goods have replaced galvanised steel.</li> </ul>	77
28 April 2017	BlueScope	BlueScope responded to JSW Group's submission with a response highlighting: <ul style="list-style-type: none"> <li>• JSW Group's dumping and subsidy margins; and</li> <li>• JSW Group's subsidy program list.</li> </ul>	83
28 April 2017	BlueScope	BlueScope made a number of observations from Hoa Sen's verification report relating to: <ul style="list-style-type: none"> <li>• normal value calculation;</li> <li>• ordinary course of trade findings; and</li> <li>• the role of an intermediary in export sales and upward adjustments to normal value.</li> </ul>	84
1 May 2017	BlueScope	BlueScope made a submission relating to its injury claims.	87
30 May 2017	BlueScope	BlueScope made a submission in relation price impact of imports from India, Malaysia and Vietnam.	90

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The following submissions were received by the Commission in response to SEF 370.			
<b>Date Submission Received</b>	<b>Interest Party</b>	<b>Subject</b>	<b>EPR No.</b>
20 June 2017	BlueScope	BlueScope provided a submission in response to SEF 370 addressing: <ul style="list-style-type: none"> <li>the assessment of market situation in relation to Vietnam;</li> <li>Hoa Sen and Nam Kim's normal value calculations;</li> <li>contemporary variable factors; and</li> <li>the NIP, and form of measures.</li> </ul>	94
20 June 2017	Essar Steel	Essar provided a submission in response to SEF 370 in relation to: <ul style="list-style-type: none"> <li>the Australian industry's price trend;</li> <li>imports from New Zealand and other countries;</li> <li>injury in the form of loss of employment and reduced capital expenses;</li> <li>immateriality of injury caused to Australian industry; and</li> <li>IPP and cumulation.</li> </ul>	95 and 99
20 June 2017	CSSM and Cedex	This submission in response to SEF 370 related to: <ul style="list-style-type: none"> <li>material injury caused to Australian industry; and</li> <li>continuation of injury.</li> </ul>	96
20 June 2017	JSW Group	The JSW Groups provided a submission in relation to: <ul style="list-style-type: none"> <li>JSW groups dumping margin calculations;</li> <li>material injury caused to Australian industry;</li> <li>cumulation of injury;</li> <li>the price effect of the goods exported from India; and</li> <li>consideration of lesser duty rule.</li> </ul>	97
20 June 2017	Government of India	This submission in response to SEF 370 raised the following issues: <ul style="list-style-type: none"> <li>the verification of subsidy programs;</li> </ul>	98

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		<ul style="list-style-type: none"> <li>that an adequate opportunity was not afforded to the GOI to participate in the investigation;</li> <li>the methodology to calculate subsidy margin in relation to Indian exporters; and</li> <li>SEF 370 did not show material injury caused by subsidised exports.</li> </ul>	
20 June 2017	CSCV	<p>CSCV provided a submission in response to SEF 370 about:</p> <ul style="list-style-type: none"> <li>the reasonableness of BlueScope's costs;</li> <li>price movements;</li> <li>the post investigation period prices of BlueScope;</li> <li>cumulation of injury; and</li> <li>assessment of material injury.</li> </ul>	100
20 June 2017	Government of Vietnam	<p>A submission in response to SEF 370 in relation to subsidy investigation preliminary findings. Note: the countervailing investigation in relation to Vietnam has been terminated.</p>	101
27 June 2017	BlueScope	<p>BlueScope provided comments in relation submissions filed by various interested parties in their response to the SEF.</p>	102

## NON-CONFIDENTIAL ATTACHMENT 2 – ASSESSMENT OF A PARTICULAR MARKET SITUATION – VIETNAM

### 1. Introduction

This attachment sets out the Commission's assessment of Australian industry's claim that there was a situation in the Vietnamese galvanised steel market during the investigation period such that domestic sales in this market were not suitable for determining normal values under subsection 269TAC(1) of the Act.

Australia's Anti-Dumping provisions, and the World Trade Organization (WTO) Anti-Dumping Agreement (ADA), both allow for the rejection of domestic selling prices where it can be established that *a situation* in the market for the goods in the exporting country renders domestic selling prices unsuitable for normal value purposes.

Generally, the Commission calculates the normal value of the goods as the price for like goods sold for home consumption in the country of export (subsection 269TAC(1) of the Act refers).<sup>62</sup> One of the exceptions to using domestic selling prices for determining normal values is set out in subsection 269TAC(2)(a)(ii) of the Act, which broadly provides that the domestic selling prices are not an appropriate basis for normal value if the Parliament Secretary is satisfied that:

*"...the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under [s.269TAC(1)]" (i.e. a 'particular market situation' exists).*

One of these situations may be where the domestic selling prices in the country of export have been materially affected by government influence, rendering those prices unsuitable for use in establishing normal values.

The existence of a particular market situation potentially affects the approach that the Commission takes to calculating normal values under the Act when determining whether goods have been exported to Australia at dumped prices.

In line with its legislative requirements, the Commission's market situation assessments concern the goods being investigated. When making this assessment, the Commission has also given consideration to conditions within the hot rolled coil (HRC) market in Vietnam. This is because the HRC is the major raw material used in the production of galvanised steel, accounting for more than 60 per cent of total raw material costs. As such, the Commission considers HRC to be a key determinant of the domestic price of galvanised steel in Vietnam.

Section 1.2 of this attachment outlines further details regarding the allegations made by BlueScope in relation to a particular market situation in Vietnam caused by imported HRC from China.

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<sup>62</sup> This price is subject to adjustments under s.269TAC(8) of the Act to ensure any differences do not affect the comparison with the export price.

## 2. BlueScope's Claims

In its application and subsequent submissions, BlueScope claims that there is a particular market situation in relation to galvanised steel sold in Vietnam caused by the importation of HRC from China at '*artificially low prices*', in other words at less than adequate remuneration.

As a result of the imports of HRC from China, BlueScope claims that the sales of galvanised steel in the Vietnamese market are not indicative of *competitive* market prices and therefore are not suitable for determining a normal value pursuant to subsection 269TAC(1) of the Act.

Vietnam does not currently manufacture the HRC used in the production of galvanised steel. Therefore, HRC used in the production of galvanised steel in Vietnam is imported. BlueScope claims that the major source country for HRC imported into Vietnam is China, and that China is the most significant influencing source of HRC for value-adding product in Vietnam.

In its application BlueScope stated that in the previous dumping investigation of galvanised steel exported from China, the Commission found that a particular market situation exists in the Chinese iron and steel industry that rendered domestic selling prices of galvanised steel unsuitable for the determination of normal value (Report 190 refers).<sup>63</sup> In particular, the Commission found that the Chinese government influence distorted the selling prices of HRC, the main raw material used in the manufacture of galvanised steel.

BlueScope alleges that the export of the Vietnamese galvanised steel to Australia at artificially low prices represents a 'transfer' of the artificially low input prices for HRC into galvanised steel produced in Vietnam. Furthermore, BlueScope states that the transfer of the artificially low input prices into finished goods in another country (in this instance, Vietnam) is nothing more than the exportation of the Government of China's (GOC's) policies and plans into manufacturing galvanised steel in Vietnam. The Commission understands that the claim made by BlueScope is that the GOC steel industry is 'circumventing' the anti-dumping measures in Australia by exporting the significant raw material input 'HRC' to another country for value-adding prior to exportation to Australia.

To substantiate its claim, BlueScope provided HRC import data for Vietnam, including data for Hoa Sen which is the largest exporter of galvanised steel to Australia from Vietnam during the investigation period. The data showed that Hoa Sen imported the majority of HRC from China and used it for the manufacture of galvanised steel.

BlueScope claims that Vietnam's Ministry of Industry and Trade ("MOIT") has recently initiated a safeguard investigation against imports of pre-painted galvanised steel products (especially from China) in response to a petition filed by local producers and this is said to highlight the increasing concern within the Vietnamese steel industry of the impact of Chinese exports on local Vietnamese prices for galvanised steel flat products. BlueScope therefore claims that the Chinese steel exports to Vietnam (including

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<sup>63</sup> A detailed assessment of the market situation in China for galvanised steel is contained in Appendix 1 to Report No.190 (REP190) which is located on the electronic public record for Investigation No.190.

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specifically, HRC) have contributed to suppressed selling prices for further value-added products. The affected goods include galvanised steel that is manufactured from imported Chinese HRC.

BlueScope alleges that Vietnam's capacity to melt steel from iron ore and coking coal raw material inputs is significantly constrained due to a lack of historical commercial investment in blast furnace and steel making infrastructure. This requires the domestic Vietnamese steel industry to seek offshore supply sources for HRC. BlueScope submits that the Government of Vietnam, in the absence of a domestic coil supply source, encourages the importation of HRC as feed supply for domestic value-adding and upstream steel manufacturing.

BlueScope claims that the complexities around Vietnamese import trade flow are clearly evidenced by the Vietnamese Government's imposition of safeguard measures on both steel billet and steel long products, on semi-finished steel products and bars and rods (imposed August 2016), in addition to the July 2016 announcement of a safeguard investigation into pre-painted flat steel. In May 2016, the Vietnamese Ministry of Industry and Trade also raised the anti-dumping tariffs for stainless steel imports from China and Indonesia.

BlueScope stated that the import trade in HRC cannot attract safeguard and/or anti-dumping type measures due to the absence of domestic industry producing like goods. BlueScope claims that most other countries in the region (such as Malaysia and Indonesia) are active in safeguard investigations, asserting material injury from excess Chinese steel supply. In the absence of a domestic HRC supply chain, the Vietnamese government encourages imports. BlueScope alleges that it is likely that this position will change when a planned HRC production facility commences in Vietnam in the near future.

Based on above, BlueScope claims that domestic prices of galvanised steel in Vietnam are not suitable for the determination of normal values under subsection 269TAC(1), as a particular market situation in relation to those goods renders those domestic selling prices unsuitable.

Following the application, BlueScope has provided various submissions and additional evidence to support its claims in relation to the existence of a particular market situation in Vietnam. A public record version of all submissions are on the Commission's website [www.adcommission.gov.au](http://www.adcommission.gov.au).

In its submission made to the Commission on 12 October 2016, BlueScope provided the Commission with the United States steel producer's anti-circumvention petition (dated September 2016) to support its market situation claim in Vietnam. The Commission identified the following key issues that are relevant to BlueScope's claims: <sup>64</sup>

- China has rapidly increased its exports of hot-rolled coil ("HRC") steel to Vietnam (p.14);

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<sup>64</sup> USDOC *Certain Corrosion Resistant Steel Products from China: Request for Circumvention Ruling* (2016). A copy of this report is on the electronic public record at submission No. 018 pp1-31.



- as a result of China's exports of HRC, coated steel producers in Vietnam have an excess capacity problem (p.16);
- the recent imposition of anti-dumping measures on coated steel products has given Chinese producers further incentive to sell HRC to Vietnamese coated steel producers for export (p.16); and
- the Vietnamese steel industry is importing capital equipment and technology (primarily from Europe) (p.20).

Additionally, BlueScope provided the Commission with a copy of *Tohoku University Economic Research Group's discussion paper No. 349*. The Commission identified the following key issues from that paper:<sup>65</sup>

- Vietnam is questioned by other economies on whether its current expansion is resulting from continued government intervention;<sup>66</sup>
- China's massive excess capacity is the driving force for low priced steel exports to Vietnam;<sup>67</sup>
- Vietnam's production expansion in the flat steel and pipe and tube sector has led to a significant increase in imports of hot-rolled sheets;<sup>68</sup> and
- Vietnam is affected by overproduction in China in the form of import penetration.<sup>69</sup>

In its submission dated 10 February 2017, BlueScope further alleges that the particular market situation in Vietnam is supported by the Government of Vietnam actively encouraging the importation of HRC in the absence of domestic production.

BlueScope provided evidence in the form of the *Vietnamese Steel Association's* presentation on the review of the first half of 2016 and its outlook for 2017. BlueScope claims that this presentation demonstrates that Chinese imports to the Vietnamese market are increasing as a result of zero per cent import tax.

Furthermore, BlueScope claims that Chinese HRC prices are the lowest FOB price of the major Vietnamese suppliers. Domestic HRC manufacture is expected to start in Vietnam in 2017, BlueScope alleges that the Government of Vietnam itself is preparing to take action in the form of investigations into 'unfair' trading prices of Chinese steel.

### **3. The Government of Vietnam's response to government questionnaire**

Following the initiation of the investigation, the Commission provided the Government of Vietnam a questionnaire in relation to the particular market situation allegation. The Government of Vietnam provided a response on 28 November 2016. A copy of the

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<sup>65</sup> Kawabata, N "The Vietnamese Iron and Steel Industry in Transition to a Market Economy —Attainments and Challenges" (2016). A copy of this report is on the electronic public record at submission No. 018 pp33-84.

<sup>66</sup> Ibid. p.40.

<sup>67</sup> Ibid. (See Note 6) p.69.

<sup>68</sup> Ibid. (See note 6) p.70.

<sup>69</sup> Ibid. (See Note 6) p.71.

Government of Vietnam's public record version response is on the Commission's website.

In its response to the government questionnaire (GQ), the Government of Vietnam expressed its concerns and disagreement with the applicant's market situation claims and the Commission's consideration of such claims in determining normal values for Vietnamese exporters of galvanised steel.

The Government of Vietnam stated that there is no legal or policy basis upon which the Commission can find that distortions and subsidies affecting domestic raw material prices in one country, can indirectly lead to distortions of domestic selling prices of further processed goods in another country. The Government of Vietnam cited the Commission's stated policy and practice outlined in its Dumping and Subsidy Manual to support its position.

Furthermore, in its submission, the Government of Vietnam claims that there is no involvement or influence by the Government of Vietnam on the domestic market for galvanised steel or the upstream materials used in the production of galvanised steel. The Government of Vietnam states that only a small proportion of the galvanised steel producers in Vietnam are state-invested enterprises and that there are no producers of HRC in Vietnam.

The Government of Vietnam also claims that it has not introduced or implemented any policies which could be interpreted as impacting on domestic market conditions for galvanised steel market in Vietnam. The Government of Vietnam stated that it has no controls or policies which impact on the supply of raw materials given that there is no local industry in Vietnam which produces or supplies the relevant raw materials to the galvanised steel industry. Additionally, the Government of Vietnam has minimal investment in the local galvanised steel industry and plays no part in the supply and demand conditions in the domestic market.

The Government of Vietnam claims that the galvanised steel industry in Vietnam is dependent on the supply of imported HRC for processing into galvanised steel. In these circumstances, it said, each Vietnamese galvanised steel producer is aiming to procure their HRC feed material at the most competitive global market price. The Vietnamese domestic market is therefore a prime example of a true market where there are no constraints on purchases, no barriers to entry and no factors affecting sales on either domestic or export markets.

#### **4. The Commission's assessment**

In assessing BlueScope's claims the Commission has considered information provided by BlueScope in its initial application and subsequent submissions; the Government of Vietnam's response to its Government Questionnaire; information collected from cooperating Vietnamese exporters and the Commission's own research and analysis.

In its application, BlueScope claims that transfer of the artificially low input prices from China into finished goods in Vietnam (galvanised steel) is, in essence, akin to the exportation of the GOC's policies and plans. BlueScope alleges that this government influence in China is resulting in artificially low purchase prices of HRC by Vietnamese

galvanised steel manufacturers, thus reducing the production costs associated with galvanised steel in the Vietnamese market. As HRC is the major raw material used in galvanised steel production, BlueScope alleges that this lower cost is creating an artificially low price for galvanised steel in the Vietnamese market.

As such, BlueScope is claiming that the domestic sales in the Vietnamese galvanised steel market are unsuitable for use in determining normal values because of the situation in the market, being artificially low costs of production and selling prices of the galvanised steel.

In order to assess BlueScope's claims concerning Chinese HRC being purchased in Vietnam at an artificially low price the Commission undertook a comparative analysis of the importation costs of HRC in Vietnam supplied by various countries.

Three cooperating Vietnamese exporters provided line by line import data for HRC during the investigation period. The Commission noted that two cooperating exporters imported some HRC from China during the investigation, while the third did not import any HRC from China. The Commission verified that the HRC supplied to these two exporters from China were from unrelated suppliers. The Commission found no evidence that the HRC supplied from China were at non arms length transactions.

The Commission compared the HRC import prices from China with other countries for the two cooperating exporters. The Commission noted in both cases that the unit import price of HRC from China was not the lowest.

Furthermore, the Commission compared weighted average Chinese HRC unit price with the weighted average unit price of imports of all other countries. The Commission found that for one exporter the weighted average HRC price from China was slightly higher than the weighted average purchase price while for the other exporter the HRC unit price was approximately slighter lower than the weighted average purchase price.

As an additional test, the Commission compared the quarterly Chinese import prices of two cooperating exporters with weighted average HRC Korean and Taiwanese<sup>70</sup> unit prices. The Commission noted that the Chinese HRC unit import prices were generally lower than the weighted average HRC Korean and Taiwanese unit prices in the investigation period. The Commission also noted that these average benchmark prices for Korea and Taiwan used in this comparison were delivered *domestic* prices. The Chinese prices, on the other hand, were delivered prices to Vietnam. The Commission noted the disparity is not significant, and does not cause it to alter its view that there is no evidence that the import prices of HRC from China to Vietnam are 'artificially low'.

Vietnam's import data<sup>71</sup> for HRC over the FY2015 shows that approximately 52% of HRC by volume (tonnes) was sourced from China and the remaining from other countries. The Commission also noted that during the investigation period, while China was one of the major suppliers of HRC to Vietnam, other countries such as Russia, Taiwan, Korea,

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<sup>70</sup> Weighted average Korean and Taiwanese HRC was used as benchmark price in a recent review of measures for certain exporters from China and Taiwan - EPR 365 refers.

<sup>71</sup> Due to the sensitivity issues the source is confidential.

Brazil, Japan and Australia also supplied HRC to the Vietnamese manufacturers of galvanised steel.

In response to the GQ, while the Government of Vietnam provided the value and volume of imports of HRC from 2011 to June 2016, however, the Government of Vietnam did not identify the country(ies) from which the HRC was imported. Therefore, the Commission was not able to determine the country of HRC suppliers.

Based on above assessments, the Commission did not find any evidence to support a finding that the Government of Vietnam policies created a 'particular market situation' such that the domestic selling prices of the galvanised steel in Vietnam would not be suitable for normal value. In its assessment of market situation, the Commission considered the following factors:

- whether the prices in the country of export of the galvanised steel (Vietnam) were artificially low; or
- whether there are other conditions in the market which render sales in that market not suitable for use in determining prices under subsection 269TAC(1).

## **5. Impact of Chinese imports on Vietnamese HRC prices**

The Commission considers that while Chinese producers are a major source of HRC used in the Vietnamese galvanised steel industry and the HRC markets within China have previously been subjected to market situation findings, this does not automatically support a market situation finding within the Vietnamese galvanised steel market as outlined in the Commission's Dumping and Subsidy Manual and outlined below:<sup>72</sup>

*"The concept of a competitive market price is not taken to prevent an exporter buying inputs from arms length suppliers at the prevailing price even if that input had been sold at below cost or dumped. This is because a company should not be penalised for making commercial decisions to buy inputs at the best price, and a dumping authority would not be able to verify input costs from uncooperative and unrelated companies".<sup>73</sup>*

In regard to the application of this policy to the circumstances in this investigation, the Commission notes that information collected during the course of its verification visits indicates that transactions between Chinese suppliers and Vietnamese galvanised steel producers were both at arms length and on comparable terms to non-Chinese suppliers of HRC.<sup>74</sup> The Commission also notes that while Chinese exporters are the major

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<sup>72</sup> Dumping and Subsidy Manual (page 45 refers).

<sup>73</sup> This is because a company should not be penalised for making a sensible commercial decision to buy inputs at the best possible price; or a dumping authority would not be able to verify the cost of producing an input from a company not associated with the importer as such companies would not normally cooperate with a dumping inquiry; and finally there is recognition that dumping inquiries have to be conducted against a timetable that imposes limits on how much time can be spent on verification visits.

<sup>74</sup> Pricing comparisons were undertaken for Chinese and non-Chinese suppliers to Vietnamese galvanised steel producers verified as part of this investigation and with other HRC pricing information collected by the Commission as part of recent investigations and reviews undertaken by the Commission.

suppliers into the Vietnamese HRC market, non-Chinese producers account for close to fifty percent of the entire domestic market.

In regards to the alleged influence of Chinese HRC prices on the galvanised steel market in Vietnam, the Commission noted that about fifty percent of HRC used in the production of galvanised steel in Vietnam was sourced from China. This confirms that a significant quantity of HRC was sourced from countries other than China. The Commission examined the purchase price of HRC by each source of supply and found that there is a significant spread of prices (from the lowest priced source to the highest priced sources). Russian HRC prices are lower than those from China, while Japanese and Korean HRC prices were higher than Chinese HRC prices at a comparable level of trade.

The Commission has found no evidence that suggests that Chinese HRC prices have influenced HRC prices from other countries, which as a consequence could have distorted selling prices of galvanised steel in Vietnam. Furthermore, the Commission found no evidence that indicates that the costs of HRC used in the production of galvanised steel in Vietnam, were not competitive market costs.

Based on the relative market shares and alignment in pricing between Chinese and non-Chinese suppliers of HRC to Vietnam, along with the Commission's existing policy position concerning what constitutes a competitive market price, it is the Commission's view that market conditions within the HRC market do not support a market situation finding within the Vietnamese galvanised steel market.

## **6. Conclusion – A Particular Market Situation**

The Commission has determined that the link between HRC prices in China and the domestic galvanised steel market in Vietnam is insufficient to warrant a finding of a particular market situation in Vietnam. In particular, in assessing whether the factors for determining whether the test for a particular market situation have been met, the Commission has considered:<sup>75</sup>

- whether the price in the country of export reflects a fair price in normal market conditions;
- whether the government in the country of export has influenced or distorted the prices or costs of the goods in the market; and
- other conditions in the market of export such as differing patterns of demand, barter trade or large single sales.

The Commission has found that the price of HRC imported from China as a raw material input used in production of galvanised steel was a cost that was competitive with other countries such as Taiwan and Korea. Therefore the Commission is of the view that the price of HRC imported from China reflects a market price in normal market conditions.

Additionally, the Commission did not find any evidence to support a finding that the Government of Vietnam influenced or distorted the prices or costs of the goods in the

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<sup>75</sup> Anti-Dumping Commission, *Dumping and Subsidies Manual* (April 2017) pages 35-37.

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market, or any other conditions in the market that would support a finding of a particular market situation in Vietnam.

Based on the above assessment, the Commission found no evidence that a particular market situation exists with regards to the galvanised steel market in Vietnam.

## NON - CONFIDENTIAL ATTACHMENT 3 - ASSESSMENT OF SUBSIDY PROGRAMS - INDIA

### 1. Finding

This attachment details the Commission's assessment of the 59 subsidy programs investigated in relation to galvanised steel exported to Australia from India.

The Commission's assessment and findings of whether each subsidy program is countervailable in relation to galvanised steel exported from India is outlined in the table below.

Program no.	Program Title	Program type	Countervailable in relation to galvanised steel
1	Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material in Special Economic Zones (SEZs)	Tax Policy	No
2	Export Income Tax Exemptions in SEZs	Tax Policy	No
3	Exemption in SEZs from Minimum Alternate Tax	Tax Policy	No
4	Exemption in SEZs from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material	Tax Policy	No
5	Exemption in SEZs from Service Tax	Tax Policy	No
6	Discounted Land Fees and Leases in SEZs	Grant	No
7	Discounted Electricity Rates in SEZs	Electricity	No
8	Exemption in SEZs from State Sales Tax and Other Levies as Extended by State Governments	Tax Policy	No
9	Duty-Free Importations for Companies Designated as Export Oriented Units (EOUs)	Tax Policy	No
10	Reimbursement to EOUs of Central Sales Tax	Tax Policy	No
11	Duty Drawback for EOUs on Fuel Procured from Domestic Oil Companies	Tax Policy	No
12	Credit for Service Tax paid by EOUs	Tax Policy	No
13	Exemptions from Income Tax for EOUs	Tax Policy	No



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14	Exemption from Central Excise Duty on Goods Procured from Domestic Tariff Areas and On Goods Manufactured in India	Tax Policy	No
15	Assistance to States for Developing Export Infrastructure and Allied Activities	Grant	No
16	Market Access Initiative	Grant	No
17	Market Development Assistance	Grant	No
18	Meeting Expenses for Statutory Compliances in Buyer Country for Trade Related Matters	Grant	No
19	Brand Promotion and Quality	Grant	No
20	Test Houses	Grant	No
21	Focus Product Scheme	Grant	No
22	Rupee/Foreign Currency Export Credit & Customer Service to Exporters	Grant	No
23	Export Promotion Capital Goods Scheme	Tariff Policy	Yes
24	Duty Exemption/Remission Schemes – Duty-Free Import Authorization Scheme	Tax Policy	No
25	Duty Exemption/Remission Schemes – Advance Authorization Scheme	Tariff Policy	Yes
26	Duty Exemption/Remission Schemes – Duty Entitlement Passbook Scheme	Tariff Policy	Yes
27	Duty Exemption/Remission Schemes – Duty Drawback Scheme	Tariff Policy	Yes
28	Provision of Captive Mining Rights for Minerals Including Iron Ore and Coal	Rights	No
29	Purchase of Iron Ore From State-owned Enterprises for Less Than Fair Market Value	LTAR	No
30	80-IB Income Deduction Program	Tax Policy	No
31	80-IA Income Tax Deduction Program	Tax Policy	Yes
32	Steel Development Fund Loans	Loan	No
33	Steel Development Fund R&D Grants	Grant	No



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34	State Government of Maharashtra (SGOM) – Industrial Promotion Subsidy	Grant	No
35	SGOM – Exemption from Electricity Duty	Electricity	Yes
36	SGOM – Waiver of Stamp Duty	Tax Policy	No
37	SGOM – Power Tariff Subsidy	Electricity	No
38	SGOM – Incentives to Strengthen Micro, Small and Medium Enterprises (MSME)	Grant	No
39	SGOM – Special Incentives of the SGOM for Mega Projects	Grant	Yes
40	State Government of Gujarat (SGOG) – Assistance to MSMEs – Interest Subsidy	Loan	No
41	SGOG – Assistance to MSMEs – Quality Certification	Grant	No
42	SGOG – Sales Tax Exemptions and Deferrals On Purchase of Goods	Tax Policy	No
43	SGOG – VAT Remission Scheme	Tax Policy	No
44	SGOG – Scheme for Assistance to Industrial Parks/Industrial Estates Set Up By Private Institutions	Grant	No
45	SGOG – Critical Infrastructure Projects	Grant	No
46	State Government of Chhattisgarh (SGOC) – Industrial Policy 2009-2014: Fixed Capital Investment Subsidy	Grant	No
47	SGOC – Industrial Policy 2009-2014: Interest Subsidy	Loan	No
48	SGOC – Industrial Policy 2009-2014: Quality Certification	Grant	No
49	SGOC – Industrial Policy 2009-2014: Electricity Duty Exemption	Electricity	No
50	SGOC – Industrial Policy 2009-2014: Stamp Duty Exemption	Tax Policy	No
51	SGOC – Industrial Policy 2009-2014: Provision of Land for Less than Adequate Remuneration	LTAR	No
52	State Government of Jharkhand (SGOJ) – Comprehensive Project Investment Subsidy	Grant	No
53	SGOJ – Stamp Duty and Registration	Tax Policy	No

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54	SGOJ – Incentive for Quality Certification	Grant	No
55	SGOJ – VAT and Tax Incentives	Tax Policy	No
56	Merchandise Exports from India Scheme	Grant	No
57	Sales Tax Deferral Program	Tax Policy	Yes
58	Electricity Duty Exemption	Electricity	Yes
59	Interest free loan	Loan	Yes

Table 1: Subsidy programs investigated for India

## 2. Relevant Legislation

Section 269T defines a 'subsidy' as follows:

**"subsidy"** , in respect of goods exported to Australia, means:

(a) a financial contribution:

(i) by a government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that government is a member; or

(iii) by a private body entrusted or directed by that government or public body to carry out a governmental function; that involves:

(iv) a direct transfer of funds from that government or body; or

(v) the acceptance of liabilities, whether actual or potential, by that government or body; or

(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or

(vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or

(viii) the purchase by that government or body of goods or services; or

(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.

This reflects Article 1.1 of the WTO *Subsidies and Countervailing Measures Agreement*.

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Subsection 269TAAC defines a countervailable subsidy as follows:

(1) *For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.*

(2) *Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:*

- (a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or*
- (b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or*
- (c) if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or*
- (d) if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.*

(3) *Subject to subsection (4), a subsidy is not specific if:*

- (a) eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and*
- (b) eligibility for the subsidy is automatic; and*
- (c) those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and*
- (d) those criteria or conditions are strictly adhered to in the administration of the subsidy.*

(4) *The Minister may, having regard to:*

- (a) the fact that the subsidy program benefits a limited number of particular enterprises; or*
- (b) the fact that the subsidy program predominantly benefits particular enterprises; or*
- (c) the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or*
- (d) the manner in which a discretion to grant access to the subsidy has been exercised;*

*determine that the subsidy is specific.*

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(5) *In making a determination under subsection (4), the Minister must take account of:*

- (a) the extent of diversification of economic activities within the jurisdiction of the subsidising authority; and*
- (b) the length of time during which the subsidy program has been in operation.*

Section 269TACC directs how the Parliamentary Secretary is to determine whether benefits have been conferred by a financial contribution or income or price support and the amount of this benefit.

Under section 269TJ, one of the matters of which the Parliamentary Secretary must be satisfied to publish a countervailing duty notice is that a countervailable subsidy has been received in respect of the goods.

### **2.1 Information considered by the Commission**

The Commission has relied upon information submitted by the applicant, information provided by the Government of India (GOI) and information provided by the cooperating exporters with respect to its investigation of the countervailable subsidy programs that were allegedly received by Indian exporters of galvanised steel exported to Australia.

### **2.2 Information provided by exporters**

The Commission has relied upon information provided by exporters and verified by the Commission in assessing the alleged subsidy programs.

This includes information provided by exporters in response to exporter questionnaire, and information gathered by the Commission during verification visits.

### **2.3 Information provided by the Government of India**

The Commission incorporated questions relating to each program in the Government questionnaires that were sent to the GOI after initiation of the investigation.

In response to the exporter questionnaire and at the onsite visit, one cooperating exporter provided information regarding four additional subsidy programs which were not part of the application. The Commission sent a supplementary government questionnaire in relation to these additional programs.

A public version of the GOI's responses in relation to the government questionnaire and supplementary government questionnaire are at the Commission's website [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **2.4 Other information considered as part of this assessment**

The Commission also considered as part of this assessment:

- information submitted by interested parties in various general submissions to the investigation;

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- information submitted to various previous investigations into the alleged subsidisation of various goods exported from India; and
- other relevant information obtained by the Commission during independent research into matters relevant to determining subsidisation of the goods in India.

## CATEGORY 3: ASSESSMENT OF SUBSIDY PROGRAMS

### 3.1 PROGRAM 23: Export Promotion Capital Goods Scheme (EPCG)

#### 3.1.1 BACKGROUND

The application alleges that during the investigation period, Indian exporters of galvanised steel benefited from the export promotion of capital goods (EPCG) program.

The definition of a subsidy under subsection 269T(1) includes reference to a financial contribution by a government or any public body.

The application alleges that the EPCG program allows for the importation of capital goods for pre-production, production and post production at zero rate or 3 per cent customs duty, subject to an export obligation equivalent to 6 times of the duty saved on the imported capital goods. The program involves a financial contribution of revenue foregone for amounts that would otherwise be owing and due to the government and which are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

The Commission requested information from Indian exporters in relation to their imports of capital goods under this program. The exporter questionnaire responses received by the Commission indicate that the cooperative exporters of galvanised steel had imported capital goods under EPCG and benefited from this program during the investigation period.

#### 3.1.2 LEGAL BASIS

The Commission has noted that this program operates under the Foreign Trade (Development and Regulation) Act which is administered by the Ministry of Commerce and Industry, Department of Commerce, India.

#### 3.1.3 WTO NOTIFICATION

The Commission is not aware of any WTO notification of this program.

#### 3.1.4 ELIGIBILITY CRITERIA

In order to obtain the benefit under the EPCG Scheme, a company must export 6 times of the duty saved amount in the period of 6 years from the date of issue of license. The benefit of an EPCG license is for two types of supplies:

- For import of capital goods from overseas suppliers where the benefit is in the form of exemption from basic customs duty, additional customs duty under section 3(1) of the Indian Customs Tariff Act, customs education cess, customs secondary and higher education cess and additional customs duty under section 3(5) of the Customs Tariff Act. However, the actual benefit is only to the extent of basic customs duty, customs education cess and customs secondary and higher education cess as credit of other duties is otherwise available.

- For procurement of capital goods from indigenous suppliers where the benefit is in the form of exemption from the central excise duty. However, the actual benefit is only in the form of cash flow management because credit of central excise duty is otherwise available.

### **3.1.5 IS THERE A SUBSIDY?**

Based on the above information, the Commission considers that this program involves a financial contribution. The benefit amount is equal to the amount of customs duty and central excise duty saved on capital goods.

Having regard to all relevant information about this program, as required by subsection 269TACC(1), the program is considered to confer a benefit to eligible enterprises because of the import customs duty and central excise duty savings realised on capital items used in the production of galvanised steel. It would therefore confer a benefit in relation to galvanised steel, and the financial contribution would meet the definition of a subsidy under section 269T of the Act.

### **3.1.6 IS THE SUBSIDY A COUNTERAVAILABLE SUBSIDY (SPECIFIC OR PROHIBITED)?**

As provided for in subsection 269TAAC(4)(a), the Minister may determine that a subsidy is specific, having regard to the fact that the subsidy program benefits a limited number of particular enterprises (exporters). The criteria or conditions providing access to the subsidy favours particular enterprises. Therefore, the Commission finds that the EPCG scheme is specific and is a countervailable subsidy in respect of galvanised steel.

### **3.1.7 THE AMOUNT OF SUBSIDY IN RESPECT OF THE GOODS**

#### **3.1.7.1 Cooperative exporters**

To calculate the amount of benefit, each capital item was amortised<sup>76</sup> over its useful life (AUL). The licenses that were redeemed were segregated from those on which the discharge certificate had not been received indicating that the export obligation was still remaining as detailed below:

- a. Licenses for which the export obligation has been fulfilled and the licenses have been redeemed, the Commission regarded the total benefit received by the cooperating exporter.

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<sup>76</sup> the following formula has been used to amortise the average useful life of the asset:

$$AK = \frac{y/n + [y - (y/n)(k-1)]d}{(1 + d)}$$

Where: Ak = the amount of the benefit allocated to year k,  
y = the face value of the subsidy,  
n = the AUL of assets in the industry being investigated,  
d = the discount rate, and  
k = the year of allocation where the year of receipt = 1 and  $1 < k < n$ .

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- b. Licenses for which the government has not provided a discharge certificate, implying that the export obligation is not fulfilled, those licenses have been regarded as a contingent liability loan and only interest on the duty exemption has been considered as the benefit.

In accordance with subsection 269TACD(2), the amount of subsidy received in respect of galvanised steel has been attributed to each unit of galvanised steel (per tonne). The unit benefit was then divided by the weighted average unit export price to calculate the subsidy margin

### **3.1.7.2 Uncooperative exporters**

Pursuant to section 269TAACA of the Act, where the Commissioner is satisfied that an exporter has not provided the information considered relevant to the investigation within a reasonable period, the Commissioner may act on the basis of all the facts available. For the uncooperative exporters of galvanised steel, no information was provided by either the GOI or the individual exporters themselves to identify whether a financial contribution has been received under this program.

In the absence of information that demonstrates the value of benefit and the volume of exports by uncooperative exporters, the Commission considers that:

- subsections 269TACC(2) and (3) are not available for determining whether a benefit has been conferred to uncooperative exporters under this program; and
- section 269TACD is not available for determining the total amount of subsidy attributable to that benefit.

In the absence of any reliable information and in accordance with section 269TACC, the Commission determines that uncooperative exporters of galvanised steel would have received benefits under this program by this financial contribution, and has calculated the amount of subsidy attributable to that benefit by reference to the highest individual subsidy rate of the cooperative exporters of galvanised steel.



## CATEGORY 1: ASSESSMENT OF SUBSIDY PROGRAMS - PROVISION OF GOODS

Program numbers 29 and 51 - In this category the provision of goods at less than fair market value were investigated by the Commission. The Commission found that both programs were not countervailable. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel is contained in the table below.

The Commission is not aware of any WTO notification in relation to any of these programs. The Commission is not satisfied that these programs meet the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore these subsidies are not countervailable. Furthermore, no evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under these programs during the investigation period. The Commission therefore considers zero subsidy rate is applicable to all exporters under these programs.

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?
29	Purchase of Iron Ore from State-owned Enterprises for Less Than Fair Market Value	The applicant alleged that the exporters of the goods had benefited by purchasing Iron Ore from SIE's at less than fair market value.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the Government Questionnaire (GQ), the GOI stated that allocation of mines are based on commercial auctions and this was the case during the entire IP. The process of auction is stated to have been incorporated to bring in transparency in the process and the resource is availed at commercially competitive rates to users.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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<b>51</b>	SGOC – Industrial Policy 2009-2014: Provision of Land for Less than Adequate Remuneration	The applicant alleged that the exporters of the goods had benefited by the program Provision of Land for Less than Adequate Remuneration run by the State Government of Chhattisgarh.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that the Industrial Policy of SGOC 2014-2019 do not provide for any scheme called Provision of Land for Less than Adequate Remuneration.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
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## CATEGORY 2: ASSESSMENT OF SUBSIDY PROGRAMS – GRANTS

Program numbers 6, 15-22, 33, 34, 38, 39, 41, 44-46, 48, 52 & 54 - In this category, twenty grant programs were investigated by the Commission. The Commission found program 39 was countervailable and all other programs in this category were not countervailable. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below table. The Commission is not aware of any WTO notification in relation to any of these programs.

### (i) countervailable subsidy program

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method used to calculate subsidy margin
39	SGOM – Special Incentives of the SGOM for Mega Projects	The applicant alleged that the exporters of the goods had benefited from the test houses program.	The GOI stated that this program in part of 'Package Scheme of Incentives of SGOM'	In its response to the GQ, the GOI stated that the quantum of incentives for Mega Projects and Ultra Mega Projects shall be decided by the High Power Committee under the chairmanship of the Chief Secretary, Government of Maharashtra on a case to case basis. However the Cabinet Sub Committee for Industry, under the chairmanship of the Chief Minister of Maharashtra will have the powers to sanction customized package of incentives and even offer special / extra	The Commission has determined that some Cooperative exporters received financial contribution in respect of galvanised steel under this program during the investigation period.	As the criteria or conditions providing access to the subsidy favors particular state over other enterprises in India, the program is considered to be specific.  The specificity of the subsidy does not meet any of the exceptions set out subsection 269TAAC(3).  For these reasons the subsidy is specific.	<u>Cooperative exporters</u>  One Cooperative exporter benefited under this program during the investigation period. Therefore, a subsidy rate was calculated for that exporter.  Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefited under this program

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				incentives for prestigious Mega Projects / Ultra Mega Projects, on a case to case basis.			<p>during the investigation period.</p> <p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program.</p> <p>The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>
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### (ii) Non-countervailable subsidy programs

The Commission is not aware of any WTO notification in relation to any of these programs. The Commission is not satisfied that these programs meet the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore these subsidies are not countervailable. Furthermore, no evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under these programs during the investigation period. The Commission therefore considers zero subsidy rate is applicable to all exporters under these programs.

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?
6	Discounted Land Fees and Leases in SEZs	The applicant alleged that the exporters of the goods had benefited from discounted Land Fees and Leases in SEZs.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that the SEZ Division, Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export the subject goods.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
15	Assistance to States for Developing Export Infrastructure and Allied Activities	The applicant alleged that the exporters of the goods had benefited from assistance to States for Developing Export Infrastructure and Allied Activities	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that the Assistance to States for Infrastructure Development of Exports scheme aims for development of export infrastructure through Government Agencies. The scheme has been restricted to	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of

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				providing grant to Central Agencies for the creation of infrastructure in the country from 2015-16. There is no benefit provided to any individual companies under the scheme.	other goods in previous investigations.
<b>16</b>	Market Access Initiative	The applicant alleged that the exporters of the goods had benefited from Market Access Initiative programs.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that the Market Access Initiative (MAI) Scheme is formulated on a product-focus country approach to evolve specific markets and specific products through market studies/surveys.</p> <p>Assistance would be provided to Export Promotion Organizations/Trade Promotion Organizations/National Level Institutions/ Research Institutions/Universities/Laboratories , Exporters etc., for enhancement of exports through accessing new markets or through increasing the share in the existing markets. Under the Scheme the level of assistance for each eligible activity has been fixed.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>17</b>	Market Development Assistance	The applicant alleged that the exporters of the goods had benefited from Market	The Commission has not identified any specific legal basis for this program.	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that this program was</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission

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		Development Assistance programs.	<p>The GOI provided the following link that refers to '<i>guidelines on the MDA Program dated 1 June, 2013</i>'</p> <p><a href="http://commerce.nic.in/DOC/writereaddata/trade/mda-guidelines01-06-2013.pdf">URL:http://commerce.nic.in/DOC/writereaddata/trade/mda-guidelines01-06-2013.pdf</a></p>	established to facilitate various measures aimed to stimulate and diversify India's export trade through marketing activities of the eligible agencies.	found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>18</b>	Meeting Expenses for Statutory Compliances in Buyer Country for Trade Related Matters	The applicant alleged that the exporters of the goods had benefited by the program Meeting Expenses for Statutory Compliances in Buyer Country for Trade Related Matters.	<p>The Commission has not identified any specific legal basis for this program.</p> <p>The GOI provided the following link referring to Foreign Trade Policy</p> <p><a href="http://commerce.nic.in/DOC/writereaddata/trade/Revised_MAI_Guidelines_W_E_F_04_08_2014.pdf">http://commerce.nic.in/DOC/writereaddata/trade/Revised_MAI_Guidelines_W_E_F_04_08_2014.pdf</a></p>	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that via the Market Access Initiative scheme assistance is provided on a reimbursement basis to individual exporters for charges/fees paid by an Indian exporter for fulfilling the statutory requirements in the buyer country.</p> <p>For statutory charges/expenses on statutory compliances of the products allowed by the Empowered Committee, assistance under the Scheme would be 50% of the charges/expenses and the total ceiling for each exporter shall be Rs.50 lakhs per annum.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>19</b>	Brand Promotion and Quality	The applicant alleged that the exporters of the goods had benefited from the 'Brand	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other	There are no articulated eligibility criteria to receive funding pursuant to this program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation

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		Promotion and Quality' program.	GOI document has been identified that provides for its establishment).	In its response to the GQ, the GOI stated that no such program was in operation during the period of investigation.	period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of the goods in previous investigations.
<b>20</b>	Test Houses	The applicant alleged that the exporters of the goods had benefited from benefits pursuant to the test houses program.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that there is no such scheme called Test Houses. However, there is an organisation called "National Test House" under the Ministry of Consumer Affairs.</p> <p>The GOI stated that customers who require getting sample/samples tested in the NTH will enquire at the Reception Counter/Facilitation Center for the concerned Scientist of the relevant area of technology under which the category of the sample falls.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>21</b>	Focus Product Scheme	The applicant alleged that the exporters of the goods had benefited to the Focus Product Scheme.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that no such program was in operation during the period of investigation.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of



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					other goods in previous investigations.
<b>22</b>	Rupee/Foreign Currency Export Credit & Customer Service to Exporters	The applicant alleged that the exporters of the goods had benefited from the Rupee/Foreign Currency Export Credit & Customer Service to Exporters.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that the GOI was in the process of collecting and collating relevant for this program and will provide that to the Commission soon.</p> <p>At the time of publishing this SEF, the GOI has not provided any information pertaining to this program.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>33</b>	Steel Development Fund R&D Grants	The applicant alleged that the exporters of the goods had benefited from Steel Development Fund R&D Grants.	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment)	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that with regard to this alleged program that Steel Development Fund R&amp;D Grants are part of Steel Development Fund Loans and such assistance, if any, are provided for R&amp;D purposes and these are not any separate scheme.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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34	State Government of Maharashtra (SGOM) – Industrial Promotion Subsidy	The applicant alleged that the exporters of the goods had benefited from the SGOM – Industrial Promotion Subsidy.	In its response to the GQ, the GOI stated that in order to encourage the dispersal of industries to lesser developed areas of the State, the Government has been giving packages of incentives to New Industrial Units / Expansion Units set up in the developing regions of the State since 1964 under a Scheme popularly known as the “Package Scheme of Incentives.”	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that the Package Scheme of Incentives, introduced in 1964, has been amended from time to time.</p> <p>The State has recently declared the new Industrial Policy -2013 to ensure sustained industrial growth. The Package Scheme of Incentives-2007 was amended in light of the Industrial Policy-2013 and “Package Scheme of Incentives 2013” was introduced containing details of eligibility criteria, quantum of incentives and monitoring mechanism for administering the incentives during the period up to the 31st March, 2018.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
38	SGOM – Incentives to Strengthen Micro, Small and Medium Enterprises (MSME)	The applicant alleged that the exporters of the goods had benefited from SGOM – Incentives to Strengthen Micro, Small and Medium Enterprises	The GOI stated that this program in part of ‘ <i>Package Scheme of Incentives of SGOM</i> ’	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that Incentives to Strengthen Micro, Small and Medium Enterprises and LSIs is a part of the Package Scheme of Incentives of SGOM.</p> <p>This program provides incentives MSMEs and LSIs promoting Quality Competitiveness, Research &amp; Development, Technology</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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				Upgradation, Water & Energy Conservation, Cleaner Production Measures and Credit Rating.	
<b>41</b>	SGOG – Assistance to MSMEs – Quality Certification	The applicant alleged that the exporters of the goods had benefited from to the program SGOG – Assistance to MSMEs – Quality Certification	In its response to the GQ, the GOI stated that a Government resolution dated 19/1/2015 specifically mentions that the scheme is “Scheme for assistance to Micro, Small and Medium Enterprises (MSMEs)”. The GOI provided a copy of Government resolution.	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that the Government of Gujarat is providing assistance to MSMEs for interest on Term Loans provided by financial Institutions. As the title says, the scheme is aimed at Medium, Small and Micro Enterprises and no assistance under this scheme can be availed by large industrial units.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>44</b>	SGOG – Scheme for Assistance to Industrial Parks/Industrial Estates Set Up By Private Institutions	The applicant alleged that the exporters of the goods had benefited from the program SGOG – Scheme for Assistance to Industrial Parks/Industrial Estates Set Up By Private Institutions.	In its response to the GQ, the GOI stated that the Government of Gujarat has observed the setting up of Industrial Parks as one of the important infrastructure components for Industrial developments of the state and with this intent a scheme for assistance to Industrial parks had been introduced.  The GOI provided a copy the Scheme.	In its response to the GQ, the GOI stated that any Industries Association/ enterprise registered under the Societies Act, Partnership Act or the Companies Act constituted for setting up of an Industrial Park will be eligible for assistance under the scheme. In the case of an Industrial Park having more than 100 hectares in area, the Institution will be allowed to develop the park with a co-developer.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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45	SGOG – Critical Infrastructure Projects	The applicant alleged that the exporters of the goods had benefited from the program SGOG – Critical Infrastructure Projects	The government resolution dated 19/1/2015 pertaining to scheme has been provided to the Commission.	<p>In its response to the GQ, the GOI stated the <u>Eligible Institution as per the scheme</u> includes:</p> <p>(i)Any Industries Association, Chamber of Commerce, Federation of Industries or group of industrial units which are registered under the Societies Act, Trust Act or the Companies Act, will be eligible to apply for assistance. Any large project/Industry House will also be eligible if the project is approved by the Implementation Committee.</p> <p>(ii)Any Department of Govt., Govt. Agency or Authority, Board, Corporation, Municipal Corporations will be eligible to seek assistance.</p> <p>The GOI also provided a list of Eligible Activities as per the Scheme.</p> <p>The scheme is not applicable to an individual company and applies to infrastructure development of the industrial cluster/ area</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
46	State Government of Chhattisgarh (SGOC) – Industrial Policy 2009-2014: Fixed Capital Investment Subsidy	The applicant alleged that the exporters of the goods had benefited from the program State Government of Chhattisgarh (SGOC) – Industrial Policy 2009-	“Industrial Policy 2001-06”, “Industrial Policy 2004-09” and “Industrial Policy 2009- 14” have been implemented. Policy 2014-19 can be accessed at the following URL: <a href="https://industries.cg.gov.i">https://industries.cg.gov.i</a>	In its response to the GQ, the GOI provided Industrial Policy 2014-2019 which contains details of available industrial incentives.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of

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		2014: Fixed Capital Investment Subsidy	<a href="#">n/pdf/policy2014-19/Industrial%20Policy%202014-19%20Translated%2012Feb2016.pdf</a> )		other goods in previous investigations.
<b>48</b>	SGOC – Industrial Policy 2009-2014: Quality Certification	The applicant alleged that the exporters of the goods had benefited pursuant to the SGOC – Industrial Policy 2009-2014: Quality Certification	Quality Certification is also a part of Industrial Policy of SGOC 2014-2019)	In its response to the GQ, the GOI stated that Quality Certification is also a part of Industrial Policy of SGOC 2014. The policy states that the new and existing Micro, Small and Medium category industries established by the entrepreneurs of general category in the State shall be reimbursed 50% of the amount spent, to a maximum Rs. 1.00 Lakh, for obtaining ISO– 9000, ISO - 14000, ISO - 18000, ISO -22000 category, BIS certification, Bureau of Energy Efficiency (BEE) certification, LEBP certification in the field of new and renewable energy, AGMARK, Euro Standard or other equal national/international certification .	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>52</b>	State Government of Jharkhand (SGOJ) – Comprehensive Project Investment Subsidy	The applicant alleged that the exporters of the goods had benefited pursuant to the State Government of Jharkhand (SGOJ) –	The packages provided in this policy are intended to attract more industry and investment to the state. The details of the policy can be accessed at the following URL:	In its response to the GQ, the GOI stated that to meet the larger objectives of the policy, SGOJ proposed to provide incentives, exemptions and concessions for industrial units to be established in the state.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution

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		Comprehensive Project Investment Subsidy.	<a href="http://jharkhandindustry.gov.in/JIIPP2016.pdf">http://jharkhandindustry.gov.in/JIIPP2016.pdf</a> .	The GOI stated that it is relevant to point out that the scheme is open to the entire State and not restricted to any region or industry or enterprises.	under this program in respect of other goods in previous investigations.
54	SGOJ – Incentive for Quality Certification	The applicant alleged that the exporters of the goods had benefited from benefits pursuant to the SGOJ – Incentive for Quality Certification	The packages provided in this policy are intended to attract more industry and investment to the state. The details of the policy can be accessed at the following URL: <a href="http://jharkhandindustry.gov.in/JIIPP2016.pdf">http://jharkhandindustry.gov.in/JIIPP2016.pdf</a> .	In its response to the GQ, the GOI stated that high priority is being accorded by the State government for improvement of quality of the industrial units and obtaining quality certification from B.I.S. and other internationally recognised institutions. Benefits received are @ 50% of the expenditure incurred up to maximum of Rs10.00 lakh.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

### CATEGORY 3: ASSESSMENT OF SUBSIDY PROGRAMS – TARIFF POLICY

Program numbers 1, 9, 11, 14, 23, 24, 25, 26, 27 and 56 – In this category, ten tariff policy programs were investigated by the Commission. The Commission found programs 23<sup>77</sup>, 25 26 27 and 56 were countervailable subsidies and all other programs in this category were not countervailable.

The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below table. The Commission is not aware of any WTO notification in relation to any of these programs.

#### (i) countervailable subsidy programs

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method used to calculate subsidy margin
25	Duty Exemption/Remission Schemes – Advance Authorization	The applicant alleged that the exporters of the goods had benefited pursuant to Duty Exemption/Remission Schemes – Advance Authorization.	The Commission is not aware of any WTO notification of this program.	Foreign Trade Policy 2015-2020 of India (Chapter 4): <a href="http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf</a> <a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a>	In its response to the GQ, the GOI stated that the Advance Authorisation is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalysts which are consumed / utilised to obtain export product, may also be	The GOI did not provide any evidence to support their claim that this subsidy is not specific and, on balance, the Commission accepts the evidence obtained from verification of the relevant exporters that the subsidy is specific to that region.  The specificity of the subsidy is not exempted	<u>Cooperative exporters</u>  One Cooperative exporter benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.  Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other

<sup>77</sup> Assessment of program at section 3 of this attachment

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					<p>allowed. DGFT, by means of Public Notice, may exclude any product(s) from the purview of Advance Authorisation.</p> <p>The GOI stated that this subsidy is not specific to any region and thus not countervailable.</p>	<p>by reference to s.269TAAC(3).</p> <p>For these reasons the subsidy is specific.</p>	<p>Cooperative exporters benefited under this program during the investigation period.</p> <p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program. The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>
26	Duty Exemption/Remission Schemes – Duty Entitlement Passbook Scheme	The applicant alleged that the exporters of the goods had benefited pursuant to Duty Exemption/Remission Schemes – Duty Entitlement Passbook Scheme	The Commission is not aware of any WTO notification of this program.	<p>Foreign Trade Policy 2015-2020 of India (Chapter 4)</p> <p><a href="http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf</a></p> <p><a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a></p>	<p>In its response to the GQ, the GOI stated that DEPBS scheme had been on pre export and post export basis. The pre-export DEPBS was abolished with effect from (w.e.f.) 1 April 2000. Hence, during the IP i.e. 1<sup>st</sup> July 2015 to 30<sup>th</sup> June 2016, the said scheme was not availed. Similarly, Duty Entitlement Passbook Scheme (post export) has been discontinued for exports made on or after 1 October 2011</p>	<p>As the criteria or conditions providing access to the subsidy favours particular state over other enterprises in India, the program is considered to be specific.</p> <p>The specificity of the subsidy is not exempted by reference to s. 269TAAC(3).</p> <p>For these reasons the subsidy is specific.</p>	<p><u>Cooperative exporters</u></p> <p>One Cooperative exporter benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.</p> <p>Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefited under this program during the investigation period.</p>



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					[Chapter 4, FTP 2009-2014].		<p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program. The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>
27	Duty Exemption/Remission Schemes – Duty Drawback Scheme	The applicant alleged that the exporters of the goods had benefited pursuant to Duty Exemption/Remission Schemes – Duty Drawback Scheme	The Commission is not aware of any WTO notification of this program.	<p>-Customs Act, 1962</p> <p>-Customs and Central Excise Duties and Service Tax Drawback Rules, 1995 (Drawback Rules, 1995)</p> <p>-Central Excise Act, 1944</p> <p>-Finance Act, 1994</p> <p><a href="http://www.cbec.gov.in/resources/htdocs-cbec/deptt_offcr/cs-manual2015.pdf">http://www.cbec.gov.in/resources/htdocs-cbec/deptt_offcr/cs-manual2015.pdf</a> which is self-explanatory</p> <p><a href="http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/cs-act-ch10">http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/cs-act-ch10</a></p>	<p>In its response to the GQ, the GOI stated that scheme design is such that use of alternative mechanisms of rebating these particular duties/tax make the AIR Duty Drawback inapplicable or it gets reduced to the appropriate extent.</p> <p>An exporter who avails benefit from this scheme cannot avail benefits from the Advance Authorisation Scheme.</p>	<p>As the criteria or conditions providing access to the subsidy favours particular state over other enterprises in India, the program is considered to be specific.</p> <p>The specificity of the subsidy is not exempted by reference to s. 269TAAC(3).</p> <p>For these reasons the subsidy is specific.</p>	<p><u>Cooperative exporters</u></p> <p>Two Cooperative exporters benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.</p> <p><u>Uncooperative exporters</u></p> <p>The highest benefit amount available under this program was from the one of the two Cooperative exporter's who benefited from this program. The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>

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56	Merchandise Exports from India Scheme (MEIS)	The applicant alleged that the exporters of the goods had benefited pursuant to the Merchandise Exports from India Scheme	The Commission is not aware of any WTO notification of this program.	Foreign Trade Policy, which derives its power under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992.  Policy for Merchandise Exports from India Scheme (MEIS) is given in Chapter 3 of FTP 2015-20	In its response to the Supplementary GQ, the GOI stated that this scheme is available for all exporters for exports of notified goods/products with ITC[HS] code, to notified markets as listed in Appendix 3B subject to ineligible categories as listed in para 3.06 of FTP 2015-20.	The Commission is not satisfied that this program meets the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore this subsidy is not countervailable.	The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period.
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### (ii) Non-countervailable subsidy programs

The Commission is not aware of any WTO notification in relation to any of these programs. The Commission is not satisfied that these programs meet the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore these subsidies are not countervailable. Furthermore, no evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under these programs during the investigation period. The Commission therefore considers zero subsidy rate is applicable to all exporters under these programs.

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?
1	Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material in	The applicant alleged that the exporters of the goods had benefited pursuant to Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare	SEZs in India are governed by the SEZ Act 2005: <a href="http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf">http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf</a> . The GOI have also enacted SEZ Rules to govern the	In its response to the GQ, the GOI stated that the Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export of Zinc Coated (Galvanised) Steel (the	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of

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	Special Economic Zones (SEZs)	Parts and Packing Material in SEZs.	provisions of the SEZ Act and they are called Special Economic Zones Rules 2006: <a href="http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf">http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf</a> .	subject goods). This precludes any possibility of benefits which have been allegedly given to exporters of the subject goods under the above mentioned program.	other goods in previous investigations.
9	Duty-Free Importations for Companies Designated as Export Oriented Units (EOUs)	The applicant alleged that the exporters of the goods had benefited pursuant to Duty-Free Importations for Companies Designated as Export Oriented Units	Foreign Trade Policy 2015-2020 of India ( Chapter 6): <a href="http://dgft.gov.in/exim/2000/Updated_FT_P_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FT_P_2015-2020.pdf</a> <a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a>	In its response to the GQ, the GOI stated that the EOU Division, Department of Commerce, Govt. of India has not issued any letter of Permission to the mandatory respondents as well as identified exporters for any EOUs in India for the export of subject goods. This precludes even any possibility of benefits which may have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
11	Duty Drawback for EOUs on Fuel Procured from Domestic Oil Companies	The applicant alleged that the exporters of the goods had benefited pursuant to Duty Drawback for EOUs on Fuel Procured from Domestic Oil Companies	Foreign Trade Policy 2015-2020 of India ( Chapter 6): <a href="http://dgft.gov.in/exim/2000/Updated_FT_P_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FT_P_2015-2020.pdf</a> <a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a>	In its response to the GQ, the GOI stated that the EOU Division, Department of Commerce, Govt. of India has not issued any letter of Permission to the mandatory respondents as well as identified exporters for any EOUs in India for the export of subject goods. This precludes even any possibility of benefits which may have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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14	Exemption from Central Excise Duty on Goods Procured from Domestic Tariff Areas and On Goods Manufactured in India	The applicant alleged that the exporters of the goods had benefited pursuant to Exemption from Central Excise Duty on Goods Procured from Domestic Tariff Areas and On Goods Manufactured in India	The Commission is not aware of any WTO notification of this program.	Foreign Trade Policy 2015-2020 of India ( Chapter 6):  <a href="http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf</a>  <a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a>	In its response to the GQ, the GOI stated that the EOU Division, Department of Commerce, Govt. of India has not issued any letter of Permission to the mandatory respondents as well as identified exporters for any EOUs in India for the export of subject goods. This precludes even any possibility of benefits which may have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.	The Commission is not satisfied that this program meets the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore this subsidy is not countervailable.	No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period.  The Commission therefore considers zero subsidy rate is applicable to all exporters under this program.
24	Duty Exemption/Remission Schemes – Duty-Free Import Authorization Scheme	The applicant alleged that the exporters of the goods had benefited pursuant to Duty Exemption/Remission Schemes – Duty-Free Import Authorization Scheme	The Commission is not aware of any WTO notification of this program.	Foreign Trade Policy 2015-2020 of India ( Chapter 4):  <a href="http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf</a>	In its response to the GQ, the GOI stated that both indirect tax rebate schemes and substitution drawback schemes can constitute an export subsidy only to the extent that they result in exemption, remission, deferral or refund of indirect taxes or import charges in excess of the amount of such taxes or charges actually levied on inputs that are consumed in the production of	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during	The Commission is not satisfied that this program meets the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore	No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the

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				<a href="#">15-2020.pdf</a>  <a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a>	<p>the exported product. However, normal allowance for waste must be made in findings regarding consumption of inputs in the production of the exported product.</p>	<p>the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.</p>	<p>this subsidy is not countervailable.</p> <p>investigation period.</p>	<p>investigation period.</p> <p>The Commission therefore considers zero subsidy rate is applicable to all exporters under this program.</p>
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## CATEGORY 4: ASSESSMENT OF SUBSIDY PROGRAMS – TAX POLICY & STAMP DUTY

*Program numbers 2-5,8,10,12,13, 30, 31, 36, 42, 43,50, 53, 55 & 57* - In this category seventeen taxation and stamp duty policy programs were investigated by the Commission. The Commission found programs 32, 55 and 57 were countervailable subsidies and all other programs in this category were not countervailable. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below table. The Commission is not aware of any WTO notification in relation to any of these programs.

### (i) countervailable subsidy programs

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method used to calculate subsidy margin
31	80-IA Income Tax Deduction Program	The applicant alleged that the exporters of the goods had benefited pursuant to 80-IA Income Tax Deduction Program	80-IA of the Income Tax Act <a href="http://www.incometaxindia.gov.in/pages/acts/income-tax-act.aspx">http://www.incometaxindia.gov.in/pages/acts/income-tax-act.aspx</a>  <a href="http://www.incometaxindia.gov.in/pages/rules/income-tax-rules-1962.aspx">http://www.incometaxindia.gov.in/pages/rules/income-tax-rules-1962.aspx</a>	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated the GOI with a view to boost to manufacturing sector, especially in industrially backward region and also to encourage private participation in setting up conventional centers, hospitals etc. and to promote agro-industries	The Commission has determined some Cooperative exporters received financial contribution in respect of galvanised steel under this program during the investigation period.	As the criteria or conditions providing access to the subsidy favours particular state over other enterprises in India, the program is considered to be specific.  The specificity of the subsidy is not exempted by reference to s. 269TAAC(3).  For these reasons the subsidy is specific.	<u>Cooperative exporters</u>  One Cooperative exporter benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.  Zero subsidy rate will be applicable to all other Cooperative exporters as no

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				etc. is providing income tax deductions scheme.			<p>evidence was found to indicate that other Cooperative exporters benefited under this program during the investigation period.</p> <p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program.</p> <p>The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>
55	SGOJ – VAT and Tax Incentives	The applicant alleged that the exporters of the goods had pursuant to	Section 7.5 of the Jharkhand Industrial and Investment Promotion Policy 2016 provides for	In its response to the GQ, the GOI stated that This facility was available to all industries including MSME, Handloom, Sericulture, Handicraft,	The Commission has determined that the Cooperative exporters did not receive any financial contribution in	The Commission is not satisfied that this program meets the specificity requirements in accordance with subsection 269TAAC(2) of the Act.	No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited

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		SGOJ – VAT and Tax Incentives	incentives on VAT.	Khadi and village industries products.  Notwithstanding anything contained in this Industrial and Investment Promotion Policy, the State reserves its right, to take appropriate direction including amendment, deletion or substitution of any incentives as granted in this Policy after the implementation of the Goods and Services Tax System into the State.	respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.	Therefore this subsidy is not countervailable.	under this program during the investigation period.  The Commission therefore considers zero subsidy rate is applicable to all exporters under this program.
57	Sales Tax Deferral Program	The applicant alleged that the exporters of the goods had benefited pursuant to Sales Tax Deferral Program	In its response to the GQ, the GOI stated that in order to encourage the dispersal of industries to lesser developed areas of the State, the Government has been giving package of incentives to New Industrial Units / Expansion Units set up in the developing regions of the State since	In its response to the GQ, the GOI stated that individual files of the units for grant of Eligibility Certificate for incentives and sanction of incentives, if any, during the eligibility period are maintained. Registers of Eligibility Certificates granted and incentives sanctioned, if any, of the eligible units are maintained.	The Commission has determined that some Cooperative exporters received financial contribution in respect of galvanised steel under this program during the investigation period.	As the criteria or conditions providing access to the subsidy favours particular state over other enterprises in India, the program is considered to be specific.  The specificity of the subsidy is not exempted by reference to s. 269TAAC(3).  For these reasons the subsidy is specific.	<u>Cooperative exporters</u>  One Cooperative exporter benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.  Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found



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			<p>1964 under a Scheme popularly known as the "Package Scheme of Incentives."</p> <p>Package Scheme of Incentives-2007 and Package Scheme of Incentives 2013</p>				<p>to indicate that other Cooperative exporters benefited under this program during the investigation period.</p> <p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program.</p> <p>The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>
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**(ii) Non-countervailable subsidy programs**

The Commission is not aware of any WTO notification in relation to any of these programs. The Commission is not satisfied that these programs meet the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore these subsidies are not countervailable. Furthermore, no evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under these programs during the investigation period. The Commission therefore considers zero subsidy rate is applicable to all exporters under these programs.

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?
2	Export Income Tax Exemptions in SEZs	The applicant alleged that the exporters of the goods had benefited pursuant to Export Income Tax Exemptions in SEZs	<p>SEZs in India are governed by SEZ Act 2005</p> <p><a href="http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf">http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf</a>.</p> <p>The GOI have also enacted SEZ Rules to govern the provisions of the SEZ Act and they are called Special Economic Zones Rules 2006.</p> <p><a href="http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf">http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf</a>.</p>	In its response to the GQ, the GOI stated that the Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export of Zinc Coated (Galvanised) Steel (the subject goods as defined). This position precludes any possibility of benefits which have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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3	Exemption in SEZs from Minimum Alternate Tax	The applicant alleged that the exporters of the goods had benefited pursuant to Exemption in SEZs from Minimum Alternate Tax	<p>SEZs in India are governed by SEZ Act 2005</p> <p><a href="http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act.%202005.pdf">http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act.%202005.pdf</a>.</p> <p>The GOI have also enacted SEZ Rules to govern the provisions of the SEZ Act and they are called Special Economic Zones Rules 2006.</p> <p><a href="http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf">http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf</a>.</p>	In its response to the GQ, the GOI stated that the Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export of Zinc Coated (Galvanised) Steel (the subject goods as defined). This position precludes any possibility of benefits which have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
4	Exemption in SEZs from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material	The applicant alleged that the exporters of the goods had benefited pursuant to Exemption in SEZs from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material	<p>SEZs in India are governed by SEZ Act 2005.</p> <p><a href="http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act.%202005.pdf">http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act.%202005.pdf</a>.</p> <p>The GOI have also enacted SEZ Rules to govern the provisions of the SEZ Act and they are called Special</p>	In its response to the GQ, the GOI stated that the Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export of Zinc Coated (Galvanised) Steel (the subject goods as defined). This position precludes any possibility of benefits which have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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			<p>Economic Zones Rules 2006.</p> <p><a href="http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf">http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf</a>.</p>		
5	Exemption in SEZs from Service Tax	<p>The applicant alleged that the exporters of the goods had benefited pursuant to Exemption in SEZs from Service Tax</p>	<p>SEZs in India are governed by SEZ Act 2005</p> <p><a href="http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf">http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf</a>.</p> <p>The GOI have also enacted SEZ Rules to govern the provisions of the SEZ Act and they are called Special Economic Zones Rules 2006.</p> <p><a href="http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf">http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf</a>.</p>	<p>In its response to the GQ, the GOI stated that the Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export of Zinc Coated (Galvanised) Steel (the subject goods as defined). This position precludes any possibility of benefits which have been allegedly given to exporters of the subject goods under the above mentioned program.</p>	<p>The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.</p>
8	Exemption in SEZs from State Sales Tax and Other Levies as Extended by State Governments	<p>The applicant alleged that the exporters of the goods had benefited pursuant to Exemption in SEZs from State Sales Tax and Other Levies as Extended by State Governments</p>	<p>SEZs in India are governed by SEZ Act 2005</p> <p><a href="http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf">http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf</a>.</p> <p>The GOI have also enacted SEZ Rules to govern the provisions</p>	<p>In its response to the GQ, the GOI stated that the Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export of Zinc Coated (Galvanised) Steel (the subject goods as defined). This position precludes any possibility of</p>	<p>The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of</p>

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			<p>of the SEZ Act and they are called Special Economic Zones Rules 2006.</p> <p><a href="http://sezindia.nic.in/writerereaddata/rules/SEZ_Rules_July_2010.pdf">http://sezindia.nic.in/writerereaddata/rules/SEZ_Rules_July_2010.pdf</a>.</p>	benefits which have been allegedly given to exporters of the subject goods under the above mentioned program.	other goods in previous investigations.
<b>10</b>	Reimbursement to EOUs of Central Sales Tax	The applicant alleged that the exporters of the goods had benefited pursuant to Reimbursement to EOUs of Central Sales Tax	<p>Foreign Trade Policy 2015-2020 of India ( Chapter 6)</p> <p><a href="http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf</a></p> <p><a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a></p>	In its response to the GQ, the GOI stated that the EOU Division, Department of Commerce, Govt. of India has not issued any letter of Permission to the mandatory respondents as well as identified exporters for any EOUs in India for the export of subject goods. This position precludes even any possibility of benefits which may have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>12</b>	Credit for Service Tax paid by EOUs	The applicant alleged that the exporters of the goods had benefited pursuant to Credit for Service Tax paid by EOUs	<p>Foreign Trade Policy 2015-2020 of India ( Chapter 6)</p> <p><a href="http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf</a></p> <p><a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a></p>	In its response to the GQ, the GOI stated that the EOU Division, Department of Commerce, Govt. of India has not issued any letter of Permission to the mandatory respondents as well as identified exporters for any EOUs in India for the export of subject goods. This position precludes even any possibility of benefits which may have been allegedly given to exporters of the subject goods	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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				under the above mentioned program.	
<b>13</b>	Exemptions from Income Tax for EOUs	The applicant alleged that the exporters of the goods had benefited pursuant to Exemptions from Income Tax for EOUs	<p>Foreign Trade Policy 2015-2020 of India ( Chapter 6)</p> <p><a href="http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf">http://dgft.gov.in/exim/2000/Updated_FTP_2015-2020.pdf</a></p> <p><a href="http://dgft.gov.in/exim/2000/Updated">http://dgft.gov.in/exim/2000/Updated</a></p>	In its response to the GQ, the GOI stated that the EOU Division, Department of Commerce, Govt. of India has not issued any letter of Permission to the mandatory respondents as well as identified exporters for any EOUs in India for the export of subject goods. This position precludes even any possibility of benefits which may have been allegedly given to exporters of the subject goods under the above mentioned program.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>30</b>	80-IB Income Deduction Program	The applicant alleged that the exporters of the goods had benefited pursuant to 80-IB Income Deduction Program	<p>80-IB of the Income Tax Act</p> <p><a href="http://www.incometaxindia.gov.in/pages/acts/income-tax-act.aspx">http://www.incometaxindia.gov.in/pages/acts/income-tax-act.aspx</a></p> <p><a href="http://www.incometaxindia.gov.in/pages/rules/income-tax-rules-1962.aspx">http://www.incometaxindia.gov.in/pages/rules/income-tax-rules-1962.aspx</a></p>	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated the GOI with a view to boost to manufacturing sector, especially in industrially backward region and also to encourage private participation in setting up conventional centers, hospitals etc. and to promote agro-industries etc. is providing income tax deductions scheme.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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36	SGOM – Waiver of Stamp Duty	The applicant alleged that the exporters of the goods had benefited pursuant to SGOM – Waiver of Stamp Duty	In its response to the GQ, the GOI stated that in order to encourage the dispersal of industries to lesser developed areas of the State, the Government has been giving package of incentives to New Industrial Units / Expansion Units set up in the developing regions of the State since 1964 under a Scheme popularly known as the “Package Scheme of Incentives.”	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that the scheme document says that new Units as well as Units undertaking Expansion/ Diversification (including Mega and Ultra Mega Projects) will be exempted from payment of Stamp duty during the Investment period in Group “C, D, D+ Talukas, No Industry Districts and Naxalism affected areas.</p> <p>Eligible New/Expansion Units of PSI-2007 will also be eligible for Stamp Duty Exemption during their investment period.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
42	SGOG – Sales Tax Exemptions and Deferrals On Purchase of Goods	The applicant alleged that the exporters of the goods had benefited pursuant to SGOG – Sales Tax Exemptions and Deferrals On Purchase of Goods	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment.	<p>There are no articulated eligibility criteria to receive funding pursuant to this program.</p> <p>In its response to the GQ, the GOI stated that the State Government is not providing any sales tax exemption or VAT remission to Industrial Units.</p> <p>The state government had discontinued the sales tax based incentives vide Government Resolution dated 29/4/2000.</p>	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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<b>43</b>	SGOG – VAT Remission Scheme	The applicant alleged that the exporters of the goods had benefited pursuant to SGOG – VAT Remission Scheme	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment.	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that the State Government is not providing any sales tax exemption or VAT remission to Industrial Units. The state government had discontinued the sales tax based incentives or VAT remission to industrial units' scheme vide Government Resolution dated 29/4/2000.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>50</b>	SGOC – Industrial Policy 2009-2014: Stamp Duty Exemption	The applicant alleged that the exporters of the goods had benefited pursuant to SGOC – Industrial Policy 2009-2014: Stamp Duty Exemption	Stamp Duty Exemption a part of Industrial Policy of SGOC 2014-2019	In its response to the GQ, the GOI stated that all categories of entrepreneurs who have established eligible Micro, Small, Medium, Large industries and all Mega project and Ultra-Mega project (including the industries of the Core sector, according to the Appendix-4) will get complete exemption from stamp duty on certain cases as outlined in the Policy.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>53</b>	SGOJ – Stamp Duty and Registration	The applicant alleged that the exporters of the goods had benefited pursuant to SGOJ – Stamp Duty and Registration	Jharkhand Industrial and Investment Promotion Policy 2016	In its response to the GQ, the GOI stated that industrial units will enjoy 100% exemption / reimbursement of stamp duty and registration fee for land directly purchased from the raiyats / acquired through consent award (lessee of IADA /industrial parks will not be eligible for this benefits). This facility will be granted only for the first transaction	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of



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				for a particular plot of land. However, as submitted herein above that the exporter of subject goods as submitted above have no units in Jharkhand and the scheme as such is not applicable to the present investigation.	other goods in previous investigations.
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## CATEGORY 5: ASSESSMENT OF SUBSIDY PROGRAMS – ELECTRICITY

Program numbers 7,35,37,49 & 58 - In this category five electricity programs were investigated by the Commission. The Commission found that programs 35 and 58 were countervailable and programs 7, 37 and 49 were not countervailable. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below table. The Commission is not aware of any WTO notification in relation to any of these programs.

### (i) Countervailable subsidy programs

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method used to calculate subsidy margin
35	SGOM – Exemption from Electricity Duty	The applicant alleged that the exporters of the goods had benefited pursuant to SGOM – Exemption from Electricity Duty	In its response to the GQ, the GOI stated that in order to encourage the dispersal of industries to lesser developed areas of the State, the Government has been giving package of incentives to New Industrial Units / Expansion Units set up in the developing regions of the State since 1964 under a	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that all Eligible New Units in Group C, D, and D+ areas and No-Industry District(s) and Naxalism affected Area will be exempted from payment of Electricity Duty during eligibility period not exceeding 15 years. In Group A and B areas, 100%	The Commission has determined that some Cooperative exporters received financial contribution in respect of galvanised steel under this program during the investigation period.	As the criteria or conditions providing access to the subsidy favours particular state over other enterprises in India, the program is considered to be specific.  The specificity of the subsidy is not exempted by reference to s. 269TAAC(3).  For these reasons the subsidy is specific.	<u>Cooperative exporters</u>  One Cooperative exporter benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.  Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefited under this program during the investigation period.  <u>Uncooperative exporters</u>  The maximum benefit amount available under this program was

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			Scheme popularly known as the "Package Scheme of Incentives."	Export Oriented Units (EOUs), Information Technology Manufacturing Units and Bio-Technology Manufacturing units will also be exempted from payment of Electricity Duty for a period of 7 Years. Necessary Notification under the provisions of the Electricity Duty Act 1958 will be issued separately by the Energy Department.			from the one Cooperative exporter who benefited from this program.  The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.
<b>58</b>	Electricity Duty Exemption	The applicant alleged that the exporters of the goods had benefited pursuant to Electricity Duty Exemption	In its response to the GQ, the GOI stated that in order to encourage the dispersal of industries to lesser developed areas of the State, the Government has been giving package of incentives to New Industrial	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that all Eligible New Units in Group C, D, and D+ areas and No-Industry District(s) and Naxalism affected Area will be exempted from	The Commission has determined that some Cooperative exporters received financial contribution in respect of galvanised steel under this program during the investigation period.	As the criteria or conditions providing access to the subsidy favours particular state over other enterprises in India, the program is considered to be specific.  The specificity of the subsidy is not exempted by reference to s. 269TAAC(3).	<u>Cooperative exporters</u>  One Cooperative exporter benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.  Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefited under this

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			Units / Expansion Units set up in the developing regions of the State since 1964 under a Scheme popularly known as the "Package Scheme of Incentives."	payment of Electricity Duty during eligibility period not exceeding 15 years. In Group A and B areas, 100% Export Oriented Units (EOUs), Information Technology Manufacturing Units and Bio-Technology Manufacturing units will also be exempted from payment of Electricity Duty for a period of 7 Years. Necessary Notification under the provisions of the Electricity Duty Act 1958 will be issued separately by the Energy Department.		For these reasons the subsidy is specific.	<p>program during the investigation period.</p> <p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program.</p> <p>The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>
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### (ii) Non-countervailable subsidy programs

The Commission is not aware of any WTO notification in relation to any of these programs. The Commission is not satisfied that these programs meet the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore these subsidies are not countervailable. Furthermore, no evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under these programs during the investigation period. The Commission therefore considers zero subsidy rate is applicable to all exporters under these programs.

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?
7	Discounted Electricity Rates in SEZs	The applicant alleged that the exporters of the goods had benefited pursuant to Discounted Electricity Rates in SEZs	Special Economic Zone Act 2005 and  Special Economic Zones Rules 2006  <a href="http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf">http://sezindia.nic.in/writereaddata/pdf/SEZ%20Act,%202005.pdf</a>  <a href="http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf">http://sezindia.nic.in/writereaddata/rules/SEZ_Rules_July_2010.pdf</a>	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that the SEZ Division, Department of Commerce, Govt. of India has not issued any Letter of Permission (LoP) to the mandatory respondents as well as identified exporters for any of the SEZ Units in India for the export of galvanised steel.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
37	SGOM – Power Tariff Subsidy	The applicant alleged that the exporters of the goods had benefited pursuant to SGOM – Power Tariff Subsidy	In its response to the GQ, the GOI stated that in order to encourage the dispersal of	New Micro, Small and Medium Enterprises (MSME) will be eligible for power tariff subsidy. The subsidy will be to the tune of Rs 1/- per unit for the Units located in	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this

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			industries to lesser developed areas of the State, the Government has been giving package of incentives to New Industrial Units / Expansion Units set up in the developing regions of the State since 1964 under a Scheme popularly known as the "Package Scheme of Incentives."	Vidarbha, Marathwada, North Maharashtra and the Districts of Raigad, Ratnagiri and Sindhudurg in Kokan Region and Rs 0.50 per unit for the Units in other areas of the State for a period of 3 years from the date of commencement of commercial production, for the energy consumed and paid. The Units in Group "A" areas will however not be eligible for this incentive.	program in respect of other goods in previous investigations.
49	SGOC – Industrial Policy 2009-2014: Electricity Duty Exemption	The applicant alleged that the exporters of the goods had benefited pursuant to SGOC – Industrial Policy 2009-2014: Electricity Duty Exemption	Electricity Duty Exemption is a part of Industrial Policy of SGOC 2014-2019.	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that the Exporters of the subject goods have no units in Sate of Chhattisgarh.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

## CATEGORY 6: ASSESSMENT OF SUBSIDY PROGRAMS – LOAN

Program numbers 32, 40, 47& 59 - In this category four loan programs were investigated by the Commission. . The Commission found that programs 32, 40 and 47 were not countervailable and program 59 was countervailable. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below table. The Commission is not aware of any WTO notification in relation to any of these programs.

### (i) countervailable subsidy programs

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method used to calculate subsidy margin
59	Interest free loan	The applicant alleged that the exporters of the goods had benefited pursuant to Interest free loan	The State Government of Maharashtra - Package Scheme of Incentives-2007 and Package Scheme of Incentives 2013	<p>In its response to the GQ, the GOI stated that Individual files of the units for grant of Eligibility Certificate for incentives and sanction of incentives, if any, during the eligibility period are maintained.</p> <p>Registers of Eligibility Certificates granted and incentives sanctioned, if any, of the eligible units are maintained.</p>	The Commission has determined that some Cooperative exporters received financial contribution in respect of galvanised steel under this program during the investigation period.	<p>As the criteria or conditions providing access to the subsidy favors particular state over other enterprises in India, the program is considered to be specific.</p> <p>The specificity of the subsidy is not exempted by reference to s. 269TAAC(3).</p> <p>For these reasons the subsidy is specific.</p>	<p><u>Cooperative exporters</u></p> <p>One Cooperative exporter benefited under this program during the investigation period. The unit benefit was calculated and divided by the unit export to calculate the subsidy rate.</p> <p>Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefited under this program during the investigation period.</p>

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							<p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program.</p> <p>The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p>
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### (ii) Non-countervailable subsidy programs

The Commission is not aware of any WTO notification in relation to any of these programs. The Commission is not satisfied that these programs meet the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore these subsidies are not countervailable. Furthermore, no evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under these programs during the investigation period. The Commission therefore considers zero subsidy rate is applicable to all exporters under these programs.

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?
32	Steel Development Fund Loans	The applicant alleged that the exporters of the goods had benefited pursuant to Steel Development Fund Loans	The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOI document has been identified that provides for its establishment.	There are no articulated eligibility criteria to receive funding pursuant to this program.  In its response to the GQ, the GOI stated that steel development fund is funded by Indian steel producers themselves. The GOI does not contribute any monetary amount to the SDF pool.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
40	State Government of Gujarat (SGOG) – Assistance to MSMEs – Interest Subsidy	The applicant alleged that the exporters of the goods had benefited pursuant to State Government of Gujarat (SGOG) – Assistance to MSMEs – Interest Subsidy	The Government resolution dated 19/1/2015 specifically mentions that the scheme is “Scheme for assistance to Micro, Small and Medium Enterprises.  A copy of Government resolution was provided to the Commission.	The Government of Gujarat is providing assistance to MSMEs for interest on Term Loan provided by financial Institution. As the title says, the scheme is aimed at Medium, Small and Micro Enterprises and no assistance under this scheme can be availed by large industrial unit.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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<b>47</b>	SGOC – Industrial Policy 2009-2014: Interest Subsidy	The applicant alleged that the exporters of the goods had benefited pursuant to SGOC – Industrial Policy 2009-2014: Interest Subsidy	Interest Subsidy is part of Industrial Policy of SGOC 2014-2019	In its response to the GQ, the GOI stated that industrial incentives concerning eligible industries established by scheduled caste/Tribe category.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.
<b>59</b>	Interest free loan	The applicant alleged that the exporters of the goods had benefited pursuant to Interest free loan	The State Government of Maharashtra - Package Scheme of Incentives-2007 and Package Scheme of Incentives 2013	<p>In its response to the GQ, the GOI stated that Individual files of the units for grant of Eligibility Certificate for incentives and sanction of incentives, if any, during the eligibility period are maintained.</p> <p>Registers of Eligibility Certificates granted and incentives sanctioned, if any, of the eligible units are maintained.</p>	The Commission has determined that some Cooperative exporters received financial contribution in respect of galvanised steel under this program during the investigation period.

## CATEGORY 7: ASSESSMENT OF SUBSIDY PROGRAMS – RIGHTS

Program number 28 - In this category one rights program was investigated by the Commission. The Commission's assessment as to whether that program is a countervailable subsidy in respect of galvanised steel is contained in the below table.

The Commission is not aware of any WTO notification in relation to any of this program. The Commission is not satisfied that this program meets the specificity requirements in accordance with subsection 269TAAC(2) of the Act. Therefore this subsidy is not countervailable. Furthermore, no evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore considers zero subsidy rate is applicable to all exporters under this program.

Program Number	Program description	Background	Legal basis	Eligibility Criteria	Is there a subsidy?
28	Provision of Captive Mining Rights for Minerals Including Iron Ore and Coal	The applicant alleged that the exporters of the goods had benefited pursuant to Provision of Captive Mining Rights for Minerals Including Iron Ore and Coal	<p>Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 (amended 12 January 2015).</p> <p>The details of MMDR Act 1957 can be accessed at the <a href="http://ibm.nic.in/writer_eaddata/files/07102014115602MMDR%20Act%201957_10052012.pdf">URL:http://ibm.nic.in/writer_eaddata/files/07102014115602MMDR%20Act%201957_10052012.pdf</a></p>	In its response to the GQ, the GOI stated that the Ministry of Coal only allocates the coal blocks and gives certain statutory approval under the provisions of the MMDR Act, 1957 vis-à-vis approval of mining plan, previous approval for mining lease etc. which provides the coal mining rights to the allocatees. The mining cost was to be incurred by the allocatees for the development of mine which included exploring, building infrastructure for coal mining, mining expenditure etc. Moreover, no subsidy regarding royalty, service tax, transportation costs etc. were given to the allocatees of coal blocks.	The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

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