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**RESPONSE TO STATEMENT OF ESSENTIAL FACTS NUMBER 190 – DUMPING
OF ZINC COATED (GALVANIZED) STEEL AND ALUMINIUM ZINC COATED
STEEL EXPORTED FROM INTER ALIA, THE PEOPLE'S REPUBLIC OF CHINA**

ON BEHALF OF
THE CHINA IRON AND STEEL ASSOCIATION (CISA) AND ITS MEMBERS

Angang Steel Company Limited

Handan Iron and Steel Group Co. Ltd

Baoshan Iron & Steel Co. Ltd.

Wuhan Iron and Steel Company Limited



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1. This submission is provided on behalf of CISA and is in response to the Statement of Essential Facts Number 190 concerning allegations of dumping of Zinc Coated (Galvanized) Steel and Aluminium Zinc Coated Steel exported from China, Korea and Taiwan. CISA has lodged earlier submissions dated 1 November 2012, 17 December 2012 (re 190A), 15 January 2013 (re 193A) and 22 February 2013.
2. This submission is divided into three parts which respectively deal with product exemptions, particular market situation and miscellaneous observations concerning the SEF.

PRODUCT EXEMPTIONS FROM ANY MEASURES

3. CISA is very encouraged by the statements by Australian Customs in section 7.4.1 of the SEF concerning the prospect of certain products being exempted from any final measures that may be imposed.
4. In particular, CISA endorses the proposition that there are reasonable grounds for the responsible Minister to consider an exemption from duties of:
 - Zero spangle and tailor-welded galvanized steel for use in the automotive industry;
 - Certain sizes of galvanized steel that Bluescope Steel does not produce being sizes beyond a maximum width of 1550mm and a minimum thickness of 0.3mm;
 - Galvanized steel products to which Tariff Concession Orders apply.
5. It is clear from the investigation by Customs and Bluescope Steel's own statements (as the sole Australian producer) that there are no goods that are like or directly competitive to the categories of goods listed in the first 2 bullet points above that are offered for sale in Australia (at all or on equal terms under like conditions). Further, the existence of various TCOs provides grounds for exemptions of goods within the ambit of these TCOs, noting that the test for a TCO is, in substance, that no substitutable goods are produced in Australia. Therefore, the Minister ought to exempt these categories of goods from any measures that may be imposed.
6. Whilst any exemptions must be accurately defined, it is important that they not be unnecessarily restrictive. For example, it would be sensible that the maximum widths and thicknesses be alternatives rather than cumulative requirements, and to ensure that the description of the end use of products as being for the automotive sector does not unintentionally restrict products from otherwise being covered by any designated exclusions. Further, any exemption should allow for future TCOs coming into force in respect of any galvanized steel products to be exempted from anti-dumping and countervailing duties. (We note that in the Commonwealth Gazette dated 20 March 2013, Bluescope Steel has applied for a number of new TCOs in respect of galvanised steel products).

7. It would be just and appropriate for any product exemptions to be granted at the same time as the Minister makes his findings in relation to the anti-dumping complaint of Bluescope Steel, rather than requiring individual interested parties to apply for an exemption pursuant to sections 8 and 10 of the *Customs Tariff (Anti-Dumping) Act 1975*. If individual interested parties were required to make applications for exemptions (assuming the publishing of a dumping notice) relevant importers would be required to pay anti-dumping duties until such time as their applications were investigated and a report containing recommendations to the Minister is prepared. This may take several months and would result in significant financial damage and disadvantage to importers and exporters from China.
8. We would add that there would be no further injury to Bluescope Steel by reason of Customs granting the exemptions as part of the current investigation.
9. Further, the wording of section 8(7) of the *Customs Tariff (anti-Dumping) Act 1975* implies that an exemption assessment occurs independently of the anti-dumping investigation, and accordingly, the granting of exemptions should not affect the assessment of the variable factors in determining the outcome of the anti-dumping investigation.

PARTICULAR MARKET SITUATION

10. CISA notices that Customs has made a preliminary determination that a "particular market situation" exists in the galvanized steel and aluminium zinc coated steel industry in China. CISA would like to express its strong opposition to this preliminary determination.
11. From the outset, CISA wishes to express its continued support and reliance on the submissions of the Government of China in this regard. A "particular market situation" can only arise – if at all – if there is a situation in the domestic market that affects the *comparison* of the domestic price with the export price. In INV 177 Customs determined that there were some kinds of Chinese Government policy influences which caused "artificially low prices for key raw materials", and that this was a "particular market situation". CISA rejects that there are "artificially low prices", because all the prices are market-based. However quite apart from that, the prices for the products under consideration (PUC) sold on the domestic market are no different from those sold on the export market.
12. Moreover, CISA recalls that the Trade Measures Review Officer (TMRO) published a report of his review of the findings in INV 177 and concluded that the evidence available to him in his view failed sufficiently to establish that policies and plans of the GOC were being implemented and enforced in a manner as would support a particular market situation finding. Customs, however, continued making a preliminary determination that a particular market situation exists in China for the industry of the PUC, despite its statements that the HSS case is directly relevant and there has been *no* new evidence cited by Customs that would change the position in this case. CISA also points out that the

programs and reasoning that apply in the HSS case are sufficiently similar to those in the current investigation, and accordingly, Customs should not continue to assert that a particular market situation applies. CISA also notices that such a preliminary assessment and analysis is based on the best information available at the time of publishing the SEF, which means, the information is still incomplete. CISA understands that the GOC has been asked to provide the response to the supplementary questionnaire in the Countervailing Investigations 193a and 193b. The supplementary questionnaire covers important questions including those related to the issue of a particular market situation. CISA maintains that, before GOC's response to the supplementary questionnaire is fully analysed and examined, any determination on the possible existence of the particular market situation in the Chinese galvanized steel and aluminium zinc coated steel market is premature.

13. CISA emphasises again its arguments raised during the meeting with Customs officials of 30 January 2013 that the Chinese Government has no influence on the production, sales or cost of galvanized steel and aluminium zinc coated steel. In essence, the Chinese manufacturers arrange the production and sales of the goods based on their assessment of the market demands (including domestic and overseas markets) and the orders for goods.
14. CISA opposes Customs' reliance on a recent EU proceeding concerning Chinese organic coated steel products. It is important to note that there are big differences between the two cases.
15. First of all, and most importantly, the EU proceeding makes no reference to an issue of "particular market situation". The European Commission bases its findings on the EU Basic Anti-dumping Regulation which does not recognize China as a market economy country. Therefore, the EU Anti-dumping law and practice should not be applicable in the current investigation. China and Chinese exporters are entitled to full rights as apply to other WTO members in Australian anti-dumping investigations.
16. Secondly, in the EU proceeding, there were no vertically integrated steel mills examined. This is because there was a sample in the EU case and neither of the two companies selected in the sample were vertically integrated. It was therefore not possible to verify if vertically integrated companies indeed received subsidies in their production of Hot Rolled Coils (HRCs). The high subsidy margins in the EU case, which mainly derive from the alleged subsidies provided for HRCs, were to a large extent based on *the complaint*. In the current Australian investigations, however, there are several vertically integrated steel mills that produce (instead of purchase) the up-stream products and therefore the question of whether there are any non-market factors affecting the price of HRCs are able to be examined. These mills have cooperated for the purposes of the on-site verifications and as a result their data is accessible to Customs officials. Taking the above reasons into account, the European Commission's findings are not relevant to the Australian proceedings. CISA strongly insists that, before looking into real and verified figures, Customs should never reach a conclusion that HRC prices are affected by

government influences, nor that production inputs and/or transfer prices (of Chinese integrated producers) would equally be affected and not reflect competitive market costs.

17. CISA would like to mention again the EU hot-dipped metallic coated steel case, which concerns the same products as those in the current investigations by the European Commission. That case was initiated in late 2007 and was terminated in early 2009 without the imposition of measures.
18. In conclusion, the legal requirements for a "particular market situation" to be applied under section 269TAC(2)(ii) of the Customs Act do not exist. In any case, for the moment there are significant uncertainties (such as the TMRO's review in the HSS case and the reinvestigation, as well as the delay in the CVD investigation) which prevents Customs from completing its analysis and drawing proper conclusions. CISA endorses GM Holden's view that the current AD investigation should be suspended or terminated pending the proper consideration of TMRO's review and the parallel CVD investigation.

MISCELLANEOUS COMMENTS CONCERNING THE SEF

19. CISA notes the comments by Customs on page 99 of the SEF under the heading 'diversion to other products'. A graph is produced at the bottom of page 99 which delineates sales volumes of Bluescope's painted versus unpainted products between 2008 and 2012. The problem with this graph is that it uses sales volumes as its comparison measurement rather than price and/or profitability. Whilst a stable relationship between sales volumes may imply stability of pricing, this is not necessarily so. There are even more difficulties in drawing conclusions about profitability based on sales volumes. It is pricing levels and profitability that are better measures of value shifting rather than diversion of production. Accordingly, the allegation that Bluescope Steel may be value shifting between painted and unpainted products has not been fully investigated, and should now be examined.
20. CISA also notes the statement by Customs on pages 99 and 100 of the SEF that any costs associated with restructuring of Bluescope Steel's businesses have been excluded from the dumping assessment. It is not clear from this statement whether Customs has examined how the restructure may have affected the unit cost of production of unpainted products, which in turn may determine the extent (if any) of material injury. All costs associated with the restructuring must be fully removed from Australian domestic pricing.
21. CISA requests that its submission dated 22 February 2013 which deals with product exemption claims be referred to in the table under section 6.6 on page 28 of the SEF.

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