

PUBLIC RECORD VERSION

April 8, 2013

Director Operations 2
International Trade Remedies Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
CANBERRA ACT 2601

Received
08 April 2013

Dear Director,

SEF No 190
ZINC-ALUMINIUM EXPORTS
JIANGYIN ZONG CHENG STEEL Co., Ltd.

Reference: SEF 190

Identity: Jiangyin Zhong Cheng Steel Co Ltd (ZC)

Role: Exporter of Zinc-Aluminium Goods Ex China

Contact: M J Howard
Mobile: 0459 212 702
Email: jack@itada.com.au

PUBLIC RECORD VERSION

Explanations:

- (1) Customs and Border Protection is referred to as CBP in this Submission and includes the I.T.R.B. of CBP.
- (2) Jiangyin Zhong Cheng is referred to as ZC in this Submission.
- (3) The applicant in this Investigation Bluescope Steel is referred to as BSL in this Submission.

Specific Claims:

ZC disputes the following preliminary findings by CBP in relation to its exports to Australia during the Investigation Period: -

AEP:

- (1) The AEP for ZC should be US\$ [REDACTED] per Tonne F.O.B. as per the transactions detailed on **Appendix No. 1 (Report)** being in accordance with s 269 TAB (1)(a) of the Act.

We are informed that the AEP is US\$ [REDACTED]

We submit that any final AEP be expressed in the functional currency of the transactions, namely US\$.

Confusion:

The SEF Report No. 190 – states at **para 9.94** – the following: -

Normal Values:

Preliminary Normal Values for domestic sales were established in accordance with s 269 TAC (1) of the Act using domestic sales that were in the OCOT.

The ZC Report on the Dumping Margin calculation at **para 6.3** refers to a preliminary determination that a market situation exists in relation to ZC's domestic sales and that because of this Normal Values have been based on s 269 TAC (2)(c).

HRC Uplift:

We submit that the arbitrary HRC uplift of 12.35% for ZC on the basis that a market situation exists on those sales is a violation of the Anti-Dumping Agreement and it defies logic when viewed in the context of, say, the AEP of US\$ [REDACTED] for the Korean exporter [REDACTED] which has a preliminary Dumping Duty calculation of 5.8%.

PUBLIC RECORD VERSION

CBP, without verified evidence, simply determine that ZC's HRC cost should have been [REDACTED] RMB per Tonne, or US\$ [REDACTED] per Tonne (@ 6.33).

Question: Why, based on our calculations, does CBP appear to be readily accepting that the CTM+S by ZC in China has to be circa US\$120 per Tonne more than the "equivalent" CTM+S in Korea, solely because of HRC pricing.

VAT: We dispute CBP's treatment of the 4% non-refundable VAT as this is already included in ZC's normal accounting practice for cost of goods sold.

As VAT is only applicable to the purchase of raw materials, and to a very minor extent, some other consumables and selling expenses, the 4% deduction from domestic selling prices is considered to be inappropriate.

In any event, we submit that given ZC's raw material costs are [REDACTED]% of sales revenue the actual affect of any 4% VAT is only [REDACTED]%.

Finally, we strongly object to CBP's treatment of this 4% on the basis that it is not a direct selling expense and CBP's utilisation of s 269 TAC (9), as stated in **para 8.10**, is considered inappropriate.

Profit : The upward adjustment for profit is not only considered to be inappropriate but commercially , it is illogical.
Given CBP has imposed an upward lift of 12.35% on HRC costs, an upward lift "doubling" the SGA element and a 4% upwards adjustment for the VAT , ZC would simply be uncompetitive on the domestic market, let alone able to obtain a profit margin.

The intention of the Act on our understanding of constructed costs is that "if the goods were sold on the domestic market".

The uplifts for VAT and PROFIT would therefore be inappropriate.

Correction: ZC claims that CBP has miscalculated 15 items in its **Exhibit No. 8** on Cost of Production as per the lines coloured pink on the attached spreadsheet.

General Observations: What these 'Dumping' Investigations initiated by BSL do demonstrate is BSL is a high cost price to Australian users.

PUBLIC RECORD VERSION

BSL “high Cost to market”

BSL is accorded a “natural” degree of protection evidenced by an exporter’s selling and movement expenses plus the importer’s transaction costs, resulting in at least 40% of the FOB cost of the GUC.

BSL Market Prices:

Whilst BSL operates a number of discount/rebate schemes, its reported May 2013, invoice prices for the Zinc-Aluminium products of G300 (0.6mm) and G550 (.42mmx940 roofing) are A\$1,395 and A\$1,475 respectively.

Question:

The other relevant observation from these BSL initiated investigations is how is it possible that a monopoly producer can appear to be micro-managing Australia’s Anti-Dumping and commercial Tariff Concession Systems?

Whilst acknowledging the provision for exemptions does exist, it is difficult to reconcile that on the one hand BSL claim to make goods that are competitive with imported GUC and on the other hand BSL could only have applied for Tariff Concessions on the basis that it does not produce substitutable goods (s 269 B interpretation).

S 269 B Interpretation:

“Substitutable goods, in respect of goods the subject of a TCO, means goods produced in Australia that are put, or are capable of being put, to a use that corresponds with a use (including design use) to which the goods the subject of the application or of the TCO can be put”.

An extract from ACN No 2010/03 is attached re “substitutable goods”

M J Howard

PUBLIC RECORD VERSION

PUBLIC RECORD VERSION

ACN 2010/03

- Searches are to be comprehensive and multiple searches using different key words would normally be expected. The terms "Australian", "manufacturer" and "[goods]", not as a single phrase, would be expected in any search of an internet search engine such as Google. Searches of proprietary data bases, such as Kompass, should follow advice provided by the database operators to determine the existence of potential manufacturers of substitutable goods.

Where a potential Australian manufacturer of substitutable goods is identified in the search, it must be contacted by the applicant in writing with details of the goods that will be the subject of the TCO application. The applicant will allow a minimum of ten working days for any responses before lodging the application. Any responses received after ten working days will be forwarded to Tariff Concessions section of Customs and Border Protection. A suggested format of the letter to the potential Australian manufacturer is attached to this ACN.

If a local manufacturer responds that it considers that it does make substitutable goods, then the applicant must substantiate at question eight why it considers the locally manufactured goods are not substitutable for the imported goods. Otherwise, the application may not be accepted as valid.

If the applicant, (or importer where different to the applicant) is aware of substitutable goods being produced in Australia in the ordinary course of business, then no TCO application should be lodged. The relevant legislation does not intend that duty concessions be available in these circumstances. This includes situations where the applicant is also an Australian manufacturer of substitutable goods. The legislation has specific provisions allowing local manufacturers to be granted TCOs for periods in which they may have ceased production of the substitutable goods.

The operative date for an application will be from the day the application was received by Customs and Border Protection. If an application is rejected the operative date does not apply.

All applications must be accompanied by clear illustrative descriptive material (IDM). Such IDM may be in the form of brochures, technical drawings, photographs, samples, industry standards or schematics. The IDM must enable a full and accurate identification of the goods to be made. The application will be rejected if the IDM does not allow an accurate tariff classification to be made for the goods. Note that applicants making PARTS concession applications must include fully indexed Illustrative Descriptive Material (IDM) linked to their preferred concession wording terms. Each part described on the index will be linked to IDM to enable a full identification of a part's characteristics, constituent material and its relationship to the parent goods. This in turn enables a correct tariff classification to occur and an assessment of the preferred terms used to describe the respective parts for concession wording purposes. Further information concerning IDM is contained in ACN 2008/33.

Inquiries concerning this notice may be directed to Manager Tariff Concessions on telephone number (02) 6275 6041 or fax number (02) 6275 6376 or by email to tarcon@customs.gov.au.

JENNIFER REIMITZ
Acting National Manager
Trade Services Branch
CANBERRA ACT
1 March 2010