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18 July 2013

Ms J Reid
Director, Operations 2
Anti-Dumping Commission
Customs House
5 Constitution Avenue
Canberra
Australian Capital Territory 2601



commercial-international

By email

Dear Ms Reid

Hyundai Steel - alleged dumping of hot rolled plate steel from Korea BlueScope comments on exporter visit report

We refer to the letter from BlueScope Steel Limited ("the Applicant") dated 4 July 2013 in relation to the exporter visit report of our client Hyundai Steel Company ("Hyundai Steel").

The Applicant makes a number of criticisms of various aspects of that exporter visit report. Hyundai Steel submits that the Applicant's criticisms are speculative and not fact based.

We will address each of these claims in turn.

A Normal value calculation

The Applicant claims that the margin outcome as determined by the Australian Customs and Border Protection Service ("Customs")¹ is flawed because, in summary:

- *"it is BlueScope's view that the level of profit applied to Hyundai's costs is likely to have been relatively minor and not sufficient to allow re-investment in a high capital-intensive industry like steel manufacture";*
- the SG&A does not accurately reflect the actual SG&A expenses incurred by Hyundai Steel for its plate steel business; and
- the dumping margin should have been higher because it is different to the dumping margin determined in a different investigation (that concerning hot-rolled coil).

The Applicant argues that, because of these issues, the normal value is *"significantly understated"*.

1 Profit rate

As admitted by the Applicant, its claim that the level of profit *"is likely to have been"* minor is speculative. The profit rate is confidential to Hyundai Steel and to Customs, and is not known to the Applicant.

¹ We note that the relevant investigating authority is now the Anti-Dumping Commission. In this letter we will continue to refer to the past conduct and decisions of the decision maker as being those of "Customs".

Customs determined the amount of profit for the purpose of constructing normal value using Hyundai Steel's domestic sales of like goods sold in the ordinary course of trade ("OCOT"). The amount of profit determined by the Minister must be based on the data relating to the production and sales of like goods by the relevant exporter. The level of profit required to "allow re-investment in a high capital-intensive industry" is not relevant to this exercise.

2 SG&A

The Applicant's claim that SG&A was not correctly allocated is, again, speculative and incorrect. The SG&A allocation for Hyundai Steel was calculated according to the sales and cost information in its financial accounts, and was based on the relevant activities and sales value pertaining to its export and domestic sales of plate steel. This was carefully examined and reviewed by Customs in this investigation - as was also the case in the previous investigation concerning hot-rolled coil ("HRC"), for which the same methodology was used.

Further, Hyundai Steel considers that the Applicant's argument that Hyundai Steel's normal value was understated because its SG&A and profit were too low is self-contradictory. Given that the profit rate is relative to the cost of the product sold, if the SG&A allocated to domestic sales was understated, the profit percentage of the OCOT sales would have been higher.

3 Normal value/dumping margin too low

The Applicant claims that the "validity" of Customs' finding that Hyundai Steel has not sold plate steel at a dumped price is questionable, and that an alternative way to calculate Hyundai Steel's normal value - using Hyundai Steel's third country sales - is required, because:

The positive dumping finding on HRC exported by Hyundai (2.6 per cent margin) to Australia surely questions the validity of a finding that preliminarily determines a negative margin of dumping for plate steel (minus 7.9 per cent) – noting specifically that plate steel and HRC are products from the same Hot Rolled Steel product family. The dumping margin findings represent a greater than 10 per cent turnaround on goods that are of the same product family and exported during a period where the investigation period overlaps.

With respect, this claim is not based on any sound reasoning or fact. The claim that plate steel and HRC are "of the same family" is irrelevant to the question of whether the goods under consideration in *this* investigation were sold by Hyundai Steel at a dumped price. The Applicant itself applied for investigations into the alleged dumping of HRC and plate steel separately. Further, we note that the Applicant's claim that the investigation periods "overlapped" is an exaggeration, and is ultimately wrong. Any "overlap" only relates to three months out of the 12 month investigation period.

Secondly, in relation to the Applicant's claim that Customs should determine Hyundai Steel's normal value using its third country sales, we note that the Applicant has not provided any explanation or evidence as to why this should be considered a more preferable approach. Further, Hyundai Steel considers that Customs has properly examined the condition, volume and nature of Hyundai Steel's third country sales. It was reasonable for Customs to conclude that the nature and volume of those third country sales were not similar to Hyundai Steel's exports to Australia and therefore were not suitable to be used to determine normal value.

In particular, the visit report identified that:

- (a) for Hyundai Steel's sales to Japan:

The plate exported to Japan is predominantly (approximately [CONFIDENTIAL TEXT

DELETED – number]%) for [CONFIDENTIAL TEXT DELETED – type of goods] applications and Hyundai Steel’s major competitors in the Japanese market for [CONFIDENTIAL TEXT DELETED – type of goods] applications are goods of [CONFIDENTIAL TEXT DELETED – competition in Japanese market].

(b) for Hyundai Steel’s sales to Canada:

[CONFIDENTIAL TEXT DELETED – export sales to Canada]

The plate exported to Canada is for [CONFIDENTIAL TEXT DELETED – type of goods] and most exports are to Canada’s [CONFIDENTIAL TEXT DELETED – region]. Hyundai noted that most of Canada’s steel mills are located on the east coast and as such Hyundai Steel’s major competitors in the Canadian market are [CONFIDENTIAL TEXT DELETED – competition in Canadian market].

Hyundai Steel submits that these conclusions are correct and unimpeachable.

B Adjustments

The Applicant argues that Customs has erred in making the following adjustments in determining the normal value for the purpose of comparison with Hyundai Steel’s export prices of plate steel:

- advertisement expense adjustment - the Applicant argues that the advertisement is not specifically related to the domestic sale;
- warranty adjustment - the Applicant argues that the warranty claims “are not necessarily product specific in nature”;
- payment guarantee expenses - the Applicant argues that adjustment should not be made because payment guarantee “would also be applicable on export sales”.

Hyundai Steel notes that these opinions are speculative – as one would expect them to be, given that the information concerned is subject to commercial confidentiality. However we can assure the Applicant that the methodologies used are entirely appropriate and are in accordance with Customs’ standard practices. The expenses referred to by the Applicant were specifically related to domestic sales. We also add – should it assist the Applicant – that they are also extremely minor in their effect.

The information supporting the making of these adjustments was properly presented by Hyundai Steel and properly verified by Customs during the verification. Customs was correctly satisfied that these adjustments are warranted in order to ensure a proper comparison.

Hyundai Steel submits that the “no-dumping” outcome for Hyundai Steel’s plate steel exports to Australia is correct, and nothing has been presented by the Applicant in its letter to suggest that is not the case.

Accordingly, Hyundai Steel requests termination of this investigation as against its exports under Section 269TDA(1) of the *Customs Act 1901*, as soon as the Commissioner is satisfied of the matters set out in that Section.

Yours sincerely

A handwritten signature in black ink, appearing to be 'D. Moulis', with a stylized, flowing script.

Daniel Moulis
Principal