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To Joanne Reid, Director Operations 2, International Trade Remedies Branch -
Australian Customs and Border Protection Service

From Andrew Percival

Date 31 May 2013

Subject **Anti-dumping and subsidy investigation - exports of plate steel from
the People's Republic of China**

Non-Confidential

Dear Joanne,

We refer to the recent submission by BlueScope Steel in relation to our client Shandong Iron and Steel Company Limited (Jigang).

In particular, BlueScope Steel has asserted that the Government of China provided financial incentives to merged entities to achieve the Government of China's official industry policy that "*the crude steel output of the top 10 producers should account for 50 per cent of the total, and by 2020, 70 per cent*" and that our client could have been a recipient of such a financial incentive when it merged with Laiwu.

The decision by our client to merge with Laiwu was solely for commercial reasons, as our client has explained to Australian Customs and Border Protection Service. Further, our client, we are instructed, received no financial incentives from the Government of China of the kind referred to by BlueScope Steel.

This is to be contrasted with the AU\$100 million the Australian Federal Government paid to BlueScope Steel on 18 January 2012 under the "*Steel Transformation Plan*", being a AU\$300 million program operating over six years from 2011/12 that aims to "*encourage investment, innovation and competitiveness in the Australian steel manufacturing industry*". Under its agreement with the Federal Government, BlueScope apparently undertook to use the AU\$100 subsidy to undertake a number of projects including restructuring its operations.

The *Steel Transformation Plan 2012* was made under section 9 of the *Steel Transformation Act 2011* by the Minister for Industry and Innovation and is a legislative instrument that contains the administrative details of the "*Steel Transformation Plan*". A copy of the *Steel Transformation Plan 2012* is attached, together with a copy of the associated Explanatory Memorandum.

There are a number of points to be made in relation to the *Steel Transformation Plan 2012*, namely:-

- unlike the so-called "*Program 20: hot rolled coil or slab provided at less than adequate remuneration*", which Australian Customs and Border Protection Service concedes has no legislative basis and this is because the "program" does not exist, the *Steel Transformation Plan 2012* does have a legislative basis;

31 May 2013

Australian Customs and Border Protection Service

Anti-dumping and subsidy investigation - exports of plate steel from the People's Republic of China**CORRS
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- the *Steel Transformation Plan 2012* provides a subsidy to, apparently, two companies, BlueScope Steel and One Steel, and, consequently, is both specific and confers a benefit;
- the recipients of the subsidy are carrying out policies of the Australian Federal Government under legislative instruments, which, on Australian Customs and Border Protection Service's analysis, makes them "public bodies" implementing economic policies of the Federal Government;
- given the need of BlueScope Steel to receive such significant subsidies to assist it in restructuring to remain competitive, it would seem that any injury that it has incurred has been due to reasons other than import competition – otherwise, why the need to be significantly subsidised to restructure its operations; and
- this was further reflected in the AU\$1,054 million net loss after tax for financial year 2011, which loss was attributed to a high Australian dollar, low steel prices and high raw material costs and a low domestic steel demand in the wake of the global financial crisis, and a AU\$1,044 million net loss after tax in financial year 2012, presumably for similar reasons: see **attached**.

Finally we note that despite this investigation being initiated in February 2013, a verification report for BlueScope Steel still has not been placed on the public file, which is of concern. No doubt the issue of the receipt of such significant subsidies and the company's economic performance, which the company attributes to a high Australian dollar, low steel prices and high raw material costs and a low domestic steel demand in the wake of the global financial crisis, will be addressed in that report.



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ASX Release

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BLUESCOPE TO RECEIVE \$100M STEEL TRANSFORMATION PLAN ADVANCE

BlueScope Steel welcomed the Federal Government's announcement today that it would advance payment of \$100 million to the company under the government's Steel Transformation Plan (STP). The Steel Transformation Plan was established to encourage investment, innovation and competitiveness in the Australian steel manufacturing industry. The company expects to receive the payment early in the New Year.

Commenting on the announcement, Managing Director and CEO, Mr Paul O'Malley said, "The advance payment will assist BlueScope Steel to undertake activities that enhance the competitiveness and economic sustainability of the company's Australian operations. These activities will include operations restructure, research & development, environmental projects and programs to improve the efficiency of plant and equipment. In particular, I would like to thank the Minister for Industry and Innovation, Mr Combet and the Minister for Manufacturing, Senator Carr, for their efforts in implementing the STP and the advance payment.

"The proceeds of the STP advance, together with the company's just-completed capital-raising, ongoing restructuring and potential asset realisation opportunities, will all help support the Company's return to profitability and growth," Mr O'Malley said.

For further information about BlueScope Steel Limited: www.bluescopesteel.com

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Prime Minister of Australia

The Hon Julia Gillard MP

Transcript of joint press conference, Canberra

MON 22 AUGUST 2011

Prime Minister

PM: Thank you. I'm joined today by the Deputy Prime Minister and Treasurer, Wayne Swan and by the Minister for Innovation, Industry, Science and Research, Minister Carr. As a Government we have been explaining to the Australian people for some time now that the fundamentals of the Australian economy are strong. We have low unemployment, we have strong public finances, we have a huge pipeline of investment coming on stream and we have strong banks. We've also been explaining to the Australian people that our economy does have patchwork pressures.

Though the economic fundamentals are strong, there are pressures on some industries and some regions. Those pressures arise in part from our very strong Australian dollar. It's a benefit for some but for some industries including manufacturing, that does put pressure on. And there are other competitive pressures and changes in the global economy that have impacts for some industries, regions and firms.

It's against that backdrop that today we have seen BlueScope announce that it will reduce jobs by 1000; 800 of those in the Illawarra and 200 in Hastings. Now this is an issue that affects us nationally, it affects those two regions and of course it affects the individual workers who are now understandably very worried about what their future will hold.

Nationally it affects us because we want to be a nation that produces steel, we want to be a nation that has a strong manufacturing sector and that offers the opportunity of high wage, high value adding manufacturing jobs.

For the regions involved, it is obviously a big blow to their local economies. For example, if we look at the Illawarra, more than 600 local firms contract with BlueScope, the firm BlueScope purchases more than \$1.2 billion per annum in goods from the local economy and BlueScope provides goods worth more than \$600 million per annum to the local economy.

So understanding this, the Government has made a set of decisions that we'll announce with my colleagues today and explain. We've decided to make this announcement because there's no higher priority for us as a Labor Government than supporting jobs. We've got a proud track record of supporting jobs, of managing the economy so that we create jobs and we intend to keep supporting jobs.

We also intend to keep managing the economy in the right way as we face these patchwork pressures, so that we spread opportunity for all and so that we do not see regions or individuals left behind. So the Government has determined to make available out of the Steel Transformation Plan money, a facility of \$100 million. The Government has also determined to make available a package that totals \$30 million as an investment and innovation fund. The \$30 million is composed of \$20 million flowing from the Federal Government, \$5 million flowing from the New South Wales Government and \$5 million flowing from BlueScope itself.

We've also determined to make available \$10 million worth of services and support to the individual workers involved. We want to make sure that people do get the services and support they need to help them get the next opportunity, the next job, the next change in their life. This is a difficult day for many working people and their families, we understand that. We'll always be determined to support Australians and their jobs and consequently we are making these announcements today.

I'll turn now to the Treasurer first for some comments and then to Minister Carr.

TREASURER: Thanks very much Prime Minister. Minister Carr will deal with the detail of the programs and I'm happy to answer questions about that as well. Firstly, I want to say what an awful day it is for those workers that are involved in these decisions down in the Illawarra and elsewhere in Victoria. It's a terrible day and we feel their pain, but the fact is that our economy is changing and what we have to do is understand the broader economic context in which these events are happening.

We do need to recognise that the global economy is changing and of course the Australian economy changes with it. Now, these changes are going to bring great opportunities for our country and for our economy, great opportunities for the country in the longer term. But what we are also seeing is the challenges and some of the downside today. What we are seeing is some of the painful adjustments that take place in parts of our economy as part of that wider change.

What we are seeing is that the weight in the global economy is moving into Asia. Now this is not just the massive development in China but it's right across our region, and we all know this is pushing up demand for our resources, and along with our other strong economic fundamentals, what this does mean is a higher Australian dollar. Now on the one hand that means cheaper goods for Australian consumers but the higher dollar puts a lot of pressure on our trade-exposed industries, and BlueScope is an example of that and they have made that very clear in their announcement today.

And what it means to companies like BlueScope is they do have to look for a sustainable business model, and of course, as I said, we are seeing the harsh consequences of that today. And this is part and parcel of having a patchwork economy. The Government has been talking about the patchwork economy for a long time. We began talking about it first in the Budget last year and we made it the centrepiece of our discussion about the future of the economy in the Budget this year. And it's instructive whilst you have this announcement today from BlueScope, you also see another announcement today from OneSteel with an expansion of their operation in South Australia. And we saw over the weekend further announcements in Queensland in terms of investments. Now none of that is great comfort to the workers involved in this announcement today. But what it means for Government, what it means for our country is we do have to face up to the challenges of the patchwork economy and we have to design our policies very carefully because of that patchwork economy. And that's why we identified the challenges of that patchwork economy in the Budget this year.

You might recall the centrepiece of the Budget was a \$3 billion investment in skills and training, and you might also recall that last year we commenced the process of putting in place a resource rent tax. And what we want to do with that money is to give tax cut to businesses elsewhere in the economy that are not in the fast lane, recognising the reality of the patchwork economy. So what we have to do as we go forward is we have to continue to adjust our policies and our policy settings to ensure we do the best that we can for all of those in our economy including those that are not in the fast lane.

PM: Let me just make a few comments and then I'll turn to my Ministerial friends and I can tell they're itching to get into this. Because we've understood for a long period of time that our economic future was going to be one of an economy in transition, a strong resources sector, that's a good thing, that's a great thing, it means literally hundreds and hundreds of billions of dollars of investment coming down the pipeline, it means jobs, it means jobs in construction and jobs in mining themselves. And it means the services that mining needs also have a bright future. We've understood that for a long period of time. We've also understood that that was going to create these differential pressures including the impact of the strong Aussie dollar on other sections of the economy, manufacturing, tourism, international education.

Because we've understood that for a long period of time we've been calibrating our economic settings to respond to it. This is the foundation stone of the Minerals Resource Rent Tax, understanding that we've got a turbo charged section of the economy likely to be very, very highly profitable and we wanted to ensure that we got a fair share of those profits and we're able to use those proceeds to help balance economic activity in other parts of the Australian economy. That's why we're reducing the company tax rate, that's why we're offering small businesses special tax breaks, that's why we're investing in infrastructure and why of course we're backing in growth in our pool of national savings, precisely to deal with these questions. And then on the advocacy of Australian industry, as Minister Carr has indicated, we'll have something more to say about these questions during the course of this week but we have already been working to bring that advocacy for Australian industry into these projects so that locals can best maximise these opportunities.

Now everything we do has to be compliant with our role as a great trading nation that needs to comply with the rules based trading order, the World Trade Organisation rules and so we will always work within that because our future is as a great trading nation. And I turn now to the Treasurer first.

TREASURER: I've spoken to many of these large investors who indicate to me that they are keen on sourcing product locally where they can but when you go out and talk to industry sometimes you find that they put a contrary proposition. Minister Carr and I had a meeting only on Friday morning with a significant number of local manufacturers who suggested that this wasn't always occurring in the way in which it should. Nobody is looking here for a solution which is not market based. We want to see Australian suppliers who do a good job and produce good product, get a fair go in terms of accessing this investment. Some of those that we spoke to said they didn't think that was the case on Friday morning. So Minister Carr and I are going to follow up on that. We have a range of other initiatives in place that Minister Carr spoke about before but I think Australians would expect that where possible many of these large investments should be sourcing product domestically where that product is competitive.

So there's a pretty strong conversation going on about this in our community and there should be. And we're going to engage with it further with industry and with the investors. What we want to ensure is that everybody gets a fair go on a competitive basis.

JOURNALIST: (Inaudible) Gina Rinehart has got a contract for the supply of Chinese-made rail tracks which is actually using steel that might have been sourced from Australia in the first instance.

TREASURER: No, I don't agree with that one way or the other because I'm not aware of the commercial detail. I also know that it is unrealistic to expect that these major projects won't be sourcing a significant amount of product from overseas because they are very big investments and of course product will be sourced from overseas, that's just common sense. I was referring to something else. I was referring to the fact that I've run into a number of people in manufacturing who have suggested to me that there may in fact be some impediments that where they're competitive they may not necessarily be getting a look in, if you like. So as a Government I think we've got to go through those issues responsibly with the industry. I'm not suggesting any solution that is not market based but I think we've got a responsibility as a country to ensure that our manufacturers get a fair go in these commercial contracts.

JOURNALIST: (Inaudible)

TREASURER: No, it's not necessarily steel specifications. I don't think OneSteel thinks that it is a competitor in some of these contracts either and it is indeed not necessarily saying that. So what we're looking for is market-based outcomes but I think what people will responsibly want to know is local product being sourced where it's competitive or not? And if people raise with me or Minister Carr, these questions, we're happy to have a look at it.

We have already been working in this area. Minister Carr spoke before about the program that we put forward in the Budget to assist industry in this task of sourcing contracts from these very big investments. And if you go around the country you'll find that state governments have been involved in discussions with companies as well as industry groups and we're going to have a good discussion about that with the industry and with the investors because this is a very important investment phase for Australia. It's important that investors make a profit and it's important that Australians understand that the opportunities that are flowing from these investments are to all our advantage.

JOURNALIST: Prime Minister, one of the Ministers spoke, I think Senator Carr spoke before about this is an issue of (inaudible) and change and if you listen to Mr Howes for example he says ok, so one sector's great fortune is a problem for another. Do you think it's the case as he says that manufacturing in Australia is in a crisis and that the change will be semi permanent or move onto a different footing, or are we going to perhaps come back the other way in the future, (inaudible)?

PM: I'll respond first and then we'll go to Michelle after that.

We live in a world of important transitions that will shape out nation's future. One of those transitions is the movement of global economic weight from west to east. We are in the region of the world that will see strong growth, I mean the Asia-Pacific century.

We are also in transition in our own economy, as we see the spectacular growth of resources and pressures on some other industry sectors, so there is a transition there. And of course, we're in transition too, to a cleaner energy future.

On the transition within our economy as the resources sector grows, when it's hungry for people, for skills, for infrastructure, when we're enjoying record terms of trade and the Australian dollar is so strong. That does put pressure on other industry segments. But we shouldn't conclude from that that we won't be a country in the future that manufactures things. We will be a country that manufactures goods. We've got to keep working to make sure we maintain competitiveness, we've always got to be looking to take ourselves up the innovation and value chain. That's good for our national economy, it's particularly good for the people who work in manufacturing who have the ability to get those high wage, high skill jobs.

And so when you look across the broad sweep of manufacturing in Australia you can see some remarkable success stories, even as we see this economic transformation with the strength of resources and the high Australian dollar. So I'm very determined that we will be a nation that has a diverse economic base and that's one of the reasons why we have worked and will keep working to ensure that our economic management is about spreading opportunity, spreading jobs, spreading skills, making sure no one's left behind, that we don't

system. We are proudly deliverers of, creators of the enterprise bargaining system that the Fair Work Act has at its heart, but if you mean accord in the broad sense of is there always a role for us to be strongly working with employers and their organisations and unions – of course there is and each of us, everyday in our own way, stays in good touch with both employer organisation and union organisations to foster that culture of cooperation, competitiveness and productivity.

JOURNALIST: Prime Minister, your Government used some procedural chicanery today to prevent the Parliament from voting on whether it believes Craig Thomson should make a full explanation to the House of Representatives. Can you explain to us please why you believe that he doesn't need to make that explanation, why the people don't deserve that?

PM: Questions of parliamentary statements are a matter for the parliamentarians involved. But what I would say more broadly on this matter is, for a long period of time here, there's been a Fair Work Australia investigation in train, I think the right thing to do is to await the outcomes of that investigation.

JOURNALIST: Prime Minister, if you've got complete confidence in Mr Thomson, would you then be happy for the Coalition's call for a police investigation to go ahead, if you're completely confident?

PM: I happen to be a believer in democracy and the separation of powers and I'll never believe in a day where a politician can tell a police officer what to do about a criminal investigation. That's absolutely wrong under the Australian system, Westminster system as we understand it.

JOURNALIST: Prime Minister, the developments in Libya, (inaudible)?

PM: Even, I'm just conscious even as we've stood here, events are moving very, very quickly. But it obviously appears that the rebels are in Tripoli, that the rebels are about to secure Libya overall, obviously the task is not yet done, but from what we've seen on our TV screens that appears to be what will happen. We will, as a nation, continue to support the people of Libya, on what we want to see as a journey to peace and democracy. We continue to call on Colonel Gaddafi to get out of the way and of course we believe he should face the international charges that are against him.

JOURNALIST: You mentioned measures to help industries and business that aren't in the fast lane. I was just wondering in your discussions with business figures how frequently do they express concerns about the Government's workplace laws?

TREASURER: Well it is raised from time to time but it's not raised as frequently as many other issues are raised. I think there's a whole basket of issues that business raise and the Government is intent on discussing all of these issues with business. One of the discussions we'll have, for example, at the Tax Forum will be on the most appropriate form of corporate taxation given the fact we've got a patchwork economy or a two-speed economy or whatever you want to call it. These are all matters that do need to be discussed if we want to maximise all of the opportunities that are flowing from this mining boom. Thanks.

PM: Thank you.



Steel Transformation Plan 2012¹

Steel Transformation Plan Act 2011

I, Greg Combet, Minister for Industry and Innovation, make the following plan under section 9 of the *Steel Transformation Plan Act 2011*.

Dated 30 April 2012

Greg Combet
Minister for Industry and Innovation

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Part 1 Preliminary	
Division 1.1 Introduction	
1.1 Name of plan	This plan is the <i>Steel Transformation Plan 2012</i> .
1.2 Commencement	This plan commences on 1 May 2012.
1.3 Object of plan	The object of this plan is the same as the object set out in subsection 3 (1) of the Act.
1.4 Overview of plan	<p><i>Note</i> Part 2 of the Act provides for the payment of financial assistance before this plan commences. This assistance is by way of competitiveness assistance advances, up to a total of \$164 million. It is intended that any competitiveness assistance advance is an advance of payments to an eligible corporation under this plan. It is also intended that eligible corporations lodge half-yearly returns as they conduct eligible activities during the plan years.</p> <p>(1) Under this plan, STP participants are entitled to cash payments of assistance for eligible innovation, eligible investment and eligible production activities.</p> <p>(2) Entitlements under this plan for an STP participant are to be reduced by the amount of any competitiveness assistance advance provided to the STP participant.</p> <p>(3) An applicant for registration under this plan must be an eligible corporation that is part of the Australian steel manufacturing industry.</p> <p>(4) STP payments are conditional on compliance with the Act and this plan.</p> <p>(5) An STP participant may be deregistered in certain circumstances (Division 2.6).</p> <p>(6) In relation to payments of assistance:</p> <p>(a) once registered, an STP participant must provide to the Secretary a half-yearly return to be entitled to assistance; and</p> <p>(b) the total amount of assistance paid in an STP year must not exceed the limit mentioned in subsection 13 (3) of the Act; and</p> <p>(c) Part 3 sets limits on assistance for an STP participant for each plan year; and</p> <p>(d) a method set out in this plan is to be used to determine how much an STP participant is entitled to be paid (Part 3).</p>
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1.5 Definitions	
(1) In this plan:	<p><i>acquire</i> includes:</p> <p>(a) acquire by purchase; and</p> <p>(b) acquire under a finance lease, operating lease or hire purchase agreement.</p> <p><i>Act</i> means the <i>Steel Transformation Plan Act 2011</i>.</p> <p><i>approved form</i> means a form approved under section 8.2.</p> <p><i>associate</i> has the meaning given by section 318 of the <i>Income Tax Assessment Act 1936</i>.</p> <p><i>Australian Accounting Standards</i> means the accounting standards made by the Australian Accounting Standards Board under subsection 334 (1) of the <i>Corporations Act 2001</i>.</p> <p><i>direct tax</i> means a tax on:</p> <p>(a) wages, profits, interest, rents, royalties or any other form of income; or</p> <p>(b) the ownership of property.</p> <p><i>electronic communication</i> has the meaning given by subsection 5 (1) of the <i>Electronic Transactions Act 1999</i>.</p> <p><i>eligible innovation</i> has the meaning given by section 1.12.</p> <p><i>eligible investment</i> has the meaning given by section 1.9.</p> <p><i>eligible production</i> has the meaning given by section 1.16.</p> <p><i>finance lease</i> has the meaning given by the Australian Accounting Standards.</p> <p><i>group of related bodies corporate</i> means a group of related bodies corporate within the meaning of sections 9 and 50 of the <i>Corporations Act 2001</i>.</p> <p><i>GST</i> has the meaning given by section 195-1 of the <i>A New Tax System (Goods and Services Tax) Act 1999</i>.</p> <p><i>half-year</i> means a period of 6 months commencing on 1 January or 1 July in a year.</p> <p><i>hire purchase agreement</i> has the meaning given by the Australian Accounting Standards.</p>
<i>Steel Transformation Plan 2012</i>	
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indirect tax means any tax except a direct tax or import charge, and includes the following:

- (a) GST or value-added tax;
- (b) luxury car tax;
- (c) sales tax;
- (d) excise tax;
- (e) turnover tax;
- (f) franchise tax;
- (g) stamp tax or duty;
- (h) transfer tax or duty;
- (i) inventory or equipment tax;
- (j) border tax.

industrial property rights include:

- (a) rights (including equitable rights) possessed by a person under the law of Australia as:
 - (i) the patentee of a patent in force for an invention; or
 - (ii) the owner of a registered trade mark; or
 - (iii) the owner of a registered design; and
- (b) rights possessed by a person under a law of a foreign country that are equivalent to the rights mentioned in paragraph (a).

insolvent under administration means a person who:

- (a) under the *Bankruptcy Act 1966* or the law of an external Territory, is a bankrupt in respect of a bankruptcy from which the person has not been discharged; or
- (b) under the law of an external Territory or the law of a foreign country, has the status of an undischarged bankrupt.

Examples for definition of insolvent under administration

A person is insolvent under administration if any of the person's property is subject to control under:

- (a) section 50 or Division 2 of Part X of the *Bankruptcy Act 1966*; or
- (b) a corresponding provision of the law of an external Territory or the law of a foreign country.

A person is insolvent under administration if, at any time during the preceding 3 years, the person has executed a personal insolvency agreement under:

- (a) Part X of the *Bankruptcy Act 1966*; or
- (b) the corresponding provisions of the law of an external Territory or the law of a foreign country.

investment undertaken by an STP participant has the meaning given by section 1.19.

maximum claimable value for eligible innovation means a value in respect of a kind of eligible innovation arrived at using the method set out in sections 1.13 and 1.14 for that kind of eligible innovation.

maximum claimable value for eligible investment means a value in respect of a kind of eligible investment arrived at using the method set out in section 1.10 for that kind of investment.

maximum claimable value for eligible production means a value in respect of a kind of eligible production arrived at using the method set out in section 1.17.

net inventory change, for an STP participant, means the closing stock value, less the opening stock value, calculated in accordance with the Australian Accounting Standards.

operating lease has the meaning given by the Australian Accounting Standards.

plan debt has the meaning given by section 5.1.

previous investment, in relation to an investment undertaken by an STP participant by way of acquiring plant and equipment under a sale and leaseback arrangement, means whichever of the following that applies:

- (a) the investment in the plant and equipment undertaken by the STP participant by way of acquiring the plant and equipment by purchase before it was sold and leased back;
- (b) the investment in the plant and equipment undertaken by the STP participant by way of building or making the plant and equipment before it was sold and leased back.

production has the meaning given by section 1.6.

production value means the value of production worked out in accordance with section 1.17.

rent, in relation to plant and equipment acquired under an operating lease, means an amount, however described, payable under the lease as consideration for leasing the plant and equipment, but does not include any deposit payable under the lease.

sale has the meaning given by sections 1.7 and 1.8.

sale and leaseback arrangement, in relation to an investment in plant and equipment undertaken by an STP participant, means an arrangement under which plant and equipment acquired by purchase, or built or made, by the STP participant is sold to, and immediately leased back under a finance lease from, another person.

sales value, for the sale of goods produced in Australia by an STP participant, means the value of the goods sold, reduced by the amount of sales tax payable on those goods

Note Section 1.6 sets out the meaning of *production*.

STP year means a year identified in the following table for which eligible investments or eligible production may be claimed by an STP participant.

Item	STP year
1	1 July 2012–30 June 2013
2	1 July 2013–30 June 2014
3	1 July 2014–30 June 2015
4	1 July 2015–30 June 2016

STP year cap has the meaning given by section 4.6.

- (2) In this plan, a reference to a person registered as an STP participant includes a reference to a group that is so registered under Division 2.3.
- (3) In this plan, all money amounts are expressed in Australian dollars.

1.6 Meaning of production

- (1) Except for net inventory change, a person is taken to produce a thing only at the time when the person sells the thing produced.
- (2) For subsection (1), production includes the manufacture of crude carbon steel using a method mentioned in the definition of *Australian steel manufacturing industry* in section 4 of the Act, being the crude product used in the production of marketable steel products.
- (3) For subsection (1), production includes the manufacture of marketable steel products including slab, hot rolled coil, cold rolled coil, billets, blooms, ingots, rods, bar, hot rolled structurals, merchant bar, plate and higher value added products such as coated and painted steel products, wire products, rail, rail wheels, pipe and tube products and grinding media.
- (4) To avoid doubt, if the manufacture of a thing could be counted as an act of production under both subsections (2) and (3), or could be counted as an act of production more than once under one of those subsections, the manufacture is to be counted as only one act of production.

Division 1.2 Sale of goods, eligible investment, eligible innovation and eligible production

Subdivision 1.2.1 Sale of goods

1.7 When sale of goods is taken to occur

A sale of goods is taken to have occurred if it would be recognised as a sale by the Australian Accounting Standards.

1.8 When sale of goods is taken not to occur

Despite section 1.8, a transaction involving goods is taken not to be a sale of the goods in a circumstance mentioned in the table.

Item	Circumstance
1	The goods are lent by a person to another person, with the intention that they be returned to the lender, and the lender retains title to the goods
2	A corresponding credit for the goods is issued after the transaction
3	The goods have previously been treated as having been sold for the purposes of this plan

Subdivision 1.2.2 Eligible investment

1.9 Eligible investment

(1) Each of the following is eligible investment:

- (a) investment in new plant and equipment, buildings or structures for the production of crude carbon steel and marketable steel products;
- (b) investment to upgrade existing plant and equipment, buildings or structures for the production of crude carbon steel and marketable steel products that is limited to the actual costs of the upgrade.

Note There is a maximum claimable value for eligible investment, worked out under section 1.10. The investment to which this section and section 1.10 relates must reflect costs, based on normal commercial values and arm's length transactions.

- (2) The investment mentioned in paragraph (1) (b) does not include expenditure on maintenance mentioned in paragraph 1.12 (2) (f).

Note Section 1.12 treats the expenditure as eligible innovation.

- (3) Without limiting subsection (1), the plant and equipment mentioned in that subsection includes the following:

- (a) computer hardware and software, to the extent that the hardware or software is used for a function or process mentioned in paragraph (a) or (b);
 - (b) shelter and housing that is integral to the production process for marketable products;
 - (c) a spare or replacement part for the plant and equipment;
 - (d) existing plant and equipment purchased on arm's-length terms.
- (4) Without limiting subsection (1), the plant and equipment mentioned in that subsection does not include the following:
- (a) plant and equipment not in Australia;
 - (b) land;
 - (c) plant and equipment that has a value of less than \$300 when new.

- (5) Plant and equipment purchased with funding under this plan must be operated in Australia for the remaining life of this plan.
- (6) However, subsection (5) does not apply to plant and equipment that is consumed in the process in which it is used.

1.10 Maximum claimable value for eligible investment

- (1) This section sets out the method of working out the maximum claimable value for eligible investment by an STP participant.
- (2) If the STP participant acquires the investment by purchase, the maximum claimable value for the investment is:

$$A + B$$

where:

A is the purchase price for the investment.

B is the sum of each of the following that relates to the purchase and that has not been included in the purchase price:

- (a) freight charges;
 - (b) insurance costs;
 - (c) import charges;
 - (d) clearance charges;
 - (e) GST;
 - (f) sales taxes;
 - (g) any other expense that would be recognised as a purchase cost under the Australian Accounting Standards;
 - (h) any other expense that would be recognised under the Australian Accounting Standards in determining the depreciable value of plant and equipment.
- (3) If the STP participant acquires the investment under a finance lease or hire purchase agreement (other than a sale and leaseback arrangement), the maximum claimable value for the investment is the capital value of the investment shown on the lease document or hire purchase agreement.
- (4) If the STP participant acquires the investment under a sale and leaseback arrangement, the maximum claimable value for the investment is:
- (a) the amount claimed for the previous investment; or
 - (b) if the previous investment has not been taken into account in a previous return—the maximum claimable value, worked out under subsection (2) or (5), for the investment in relation to the previous investment.

- (5) If the STP participant builds or makes the investment, the maximum claimable value for the investment, for a half-year, is:

- (a) the value of the investment recorded in the STP participant's accounts or register of assets; or
- (b) if the investment (the *new plant and equipment*) is part of an existing plant and equipment—the total net increase, recorded in the STP participant's accounts or register of assets for that half-year, in the value of the existing plant and equipment as a result of the building and making of the new plant and equipment.

- (6) Despite subsections (2) to (5), expenditure is limited to the actual costs of the upgrade, alterations, repairs or maintenance if the expenditure, however described, is in relation to upgrading a building or structure or undertaking alterations, repairs or maintenance to an existing building or structure.

- (7) For subsection (6), the expenditure:

- (a) is taken to be the value of the building or structure that may be recognised as an expense, or capitalised, in the STP participant's accounts; and
- (b) in spite of paragraph (a), is limited to expenditure necessary for the efficient housing and operation of new plant or equipment mentioned in section 1.9; and
- (c) is taken to have been incurred only when:
 - (i) payment has been made; and
 - (ii) if a certificate of occupancy is required—the certificate has been issued.

Note 1 If an investment involves the STP participant entering into a transaction with another person, section 1.20 states that the value of the investment is to be determined on the basis that the STP participant and the other person are at arm's length.

Note 2 See Subdivision 1.3.2 for how to determine arm's length amounts.

1.11 Working out investment amounts

- (1) As soon as practicable after an STP participant provides a return for a half-year, the Secretary must work out the investment amounts for the STP participant for the half-year for investments to which section 1.10 applies.
- (2) The Secretary must work out the investment amount for the STP participant for the half-year for investment to which section 1.10 applies in accordance with the formula.

$$D \times 25\% - CA$$

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where:

CA is the total amount of other Commonwealth assistance, if any, received by the STP participant in relation to investment mentioned in component *D* of the formula.

Note Section 7.3 sets out how the amount of other Commonwealth assistance is worked out.

D is the amount of eligible investment, to which section 1.10 applies, undertaken by the STP participant in the half-year.

Subdivision 1.2.3 Eligible innovation

1.12 Eligible innovation

- (1) An STP participant may claim, as eligible innovation, activities that relate to research and development:
 - (a) to which section 1.6 applies; and
 - (b) that are undertaken for the purpose of:
 - (i) acquiring new knowledge; or
 - (ii) creating new or improved materials, products, devices, production or processes.
- (2) Without limiting subsection (1), eligible innovation of a kind mentioned in that subsection includes the following activities:
 - (a) basic and strategic research;
 - (b) industrial and engineering design;
 - (c) production engineering;
 - (d) development activities relating to the building and testing of prototypes;
 - (e) re-engineering and modification of existing products and processes;
 - (f) maintenance of existing materials, products, devices, production or processes, for the purpose of maintaining or improving the efficiency of existing products or processes;
 - (g) development and installation of purpose-designed systems for:
 - (i) quality assurance and process control; or
 - (ii) materials or movement control;
 - (h) testing and modification of new production systems, whether purpose-built or interchangeable, to achieve repeatability within specified tolerances;
 - (i) acquiring technology, or the right to use technology;
 - (j) obtaining industrial property rights, including:
 - (i) preparing and lodging applications and other documents that are required to be lodged, in Australia or elsewhere, for the initial grant or registration of the rights; and

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- (ii) the initial grant or registration of the rights, in Australia or elsewhere.

- (3) However, eligible innovation of a kind mentioned in subsection (1) does not include the following activities:

- (a) the design of buildings (whether or not the buildings are to be used to house a research and development activity);
 - (b) the design and installation of financial management systems;
 - (c) market research, market testing, market development or sales promotion, including customer surveys;
 - (d) routine quality control;
 - (e) management studies or efficiency surveys;
 - (f) routine collection of information, other than for the purpose of research and development;
 - (g) the acquisition from another STP participant of technology or the rights to use technology;
 - (h) the protection of industrial property rights by legal action.
- (4) Eligible innovation of the kind mentioned in subsection (1):
 - (a) includes research and development conducted by another person (other than a Cooperative Research Centre) on behalf of the STP participant under a contract with the STP participant if:
 - (i) the STP participant contributes to the direction and management of the research and development; and
 - (ii) the STP participant has a proportionate share in any intellectual property resulting from the research and development; and
 - (iii) the STP participant is not required to conduct the research and development on behalf of:
 - (A) another person under a contract with the other person; or
 - (B) another STP participant under a contract with the other STP participant; and
 - (b) includes research and development conducted by a Cooperative Research Centre under a contract with the STP participant if:
 - (i) the STP participant contributes to the direction and management of the research and development; and
 - (ii) the STP participant has the right to use any intellectual property resulting from the research and development; and
 - (iii) the STP participant is not required to conduct the research and development on behalf of another person under a contract with the other person.

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1.13 Maximum claimable value for eligible innovation activities

- (1) For an STP participant, this section and section 1.14 set out the method of working out the maximum claimable value for eligible innovation activities of the kind mentioned in subsection 1.12 (1).
- (2) The maximum claimable value for eligible innovation activities, for a half-year, is: the sum of each of the following amounts of expenditure that have been recognised in the STP participant's accounts, in accordance with Australian Accounting Standards:
- (a) labour costs, within the meaning of subsection 1.15 (1), in relation to:
 - (i) employees carrying out research and development in relation to an eligible innovation activity; and
 - (ii) skilled or unskilled craftspersons, secretarial staff, clerical staff or executive staff participating in the management of scientific or technical aspects of research and development in relation to an eligible innovation activity;
 - (b) the cost, within the meaning of subsection 1.15 (2), of training and developing employees referred to in paragraph (a);
 - (c) if the eligible innovation activities involve an activity that has been carried out by a person under a contract for services with the STP participant—the amount payable, under the contract, to the person for the activity;
 - (d) the cost of purchasing, for the purposes of the eligible innovation activities, any plant and equipment that is consumed or tested to destruction within 12 months after its purchase;
 - (e) the cost of purchasing, for the purposes of the eligible innovation activities, any work order materials.

Note The acquisition of plant and equipment for research and development that is recognised in the STP participant's accounts as an asset, in accordance with Australian Accounting Standards, is dealt with in section 1.19.

- (3) However, if the eligible innovation activities are conducted by another person (other than a Cooperative Research Centre) on behalf of the STP participant, under a contract with the STP participant, the maximum claimable value for eligible innovation activities, for a half-year, is the total amount of claims, enforceable by the other person against the STP participant, that arise, in that half-year, for any work done in relation to the activities.
- (4) If the eligible innovation activities are conducted by a Cooperative Research Centre, under a contract with the STP participant, the maximum claimable value for the activities for a half-year, is the total amount of contribution made, in that half-year, by the STP participant to the Centre in relation to the eligible innovation activities.

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1.14 Working out eligible innovation amounts

As soon as practicable after an STP participant provides a return for a half-year, the Secretary must work out:

- (a) the innovation amount for the STP participant, for the half-year, for eligible innovation activities to which section 1.13 applies; and
- (b) the eligible innovation amount for the half-year for eligible innovation activities to which section 1.13 applies, in accordance with the formula:

$$F \times 40\% - CA$$

where:

CA is the total amount of other Commonwealth assistance, if any, received by the STP participant in relation to investment mentioned in component *F* of the formula.

Note Section 7.3 sets out how the amount of other Commonwealth assistance is worked out.

F is the amount of expenditure by the STP participant in the half-year on eligible innovation activities to which section 1.13 applies.

1.15 Meanings of labour costs and cost of training and development

- (1) For working out the maximum claimable value for eligible innovation, *labour costs* in respect of an employee includes each of the following that applies to the employee:

- (a) salary or wages;
- (b) allowances, bonuses, overtime and penalty rate payments;
- (c) leave payments for annual leave, sick leave and long service leave;
- (d) superannuation fund contributions, payroll tax and workers' compensation insurance premiums;
- (e) the cost, other than the cost of any fringe benefits tax, of providing a vehicle or any other benefit included in the employee's remuneration package.

- (2) Without limiting paragraph 1.13 (2) (b), the *cost of training and development* of an employee of an STP participant includes the following:

- (a) the cost of graduate development programs;
- (b) the cost of training to use software specifically related to the research and development;
- (c) labour costs in respect of employees directly supporting or assisting, or directly involved in, the training and development of the employee.

- (3) Despite section 1.13:

- (a) if an amount mentioned in that section relates to activities other than those covered by eligible innovation, only the part of the amount that relates to the eligible innovation is to be taken into account; and

- (b) if an expenditure, however described, is to be taken into account in working out the maximum claimable value for eligible innovation and the expenditure includes an amount of GST payable on the supply to which the expenditure relates, the expenditure is to be reduced by the amount of GST for the purpose of working out the maximum claimable value for eligible innovation activities.

Example for paragraph 3 (a)

If an employee transfers from the area of the corporation responsible for sales to the area responsible for research and development, leave payments for any leave accrued while the employee was with the sales area cannot be included in the labour costs in respect of the employee for the purposes of working out the maximum claimable value for eligible innovation activities under section 1.13.

Note 1 If an investment involves the STP participant entering into a transaction with another person, section 1.17 states that the value of the investment is to be determined on the basis that the STP participant and the other person are at arm's length.

Note 2 See Subdivision 1.3.2 for how to determine arm's length amounts.

- (4) In this section:

fringe benefits tax has the meaning given by subsection 136 (1) of the *Fringe Benefits Tax Assessment Act 1986*.

Subdivision 1.2.4 Eligible production

1.16 Eligible production for STP participants

An STP participant may claim the production referred to in section 1.6 as eligible production.

1.17 Maximum claimable value for eligible production

- (1) For an STP participant, the method of working out the maximum claimable value for eligible production (the *production value*) is worked out in accordance with subsection (2).

- (2) The maximum claimable value, for a half-year, of the STP participant's production is:

$$A - B + C$$

where:

A is the total revenue from eligible production by the STP participant in the half-year, including:

- (a) revenue from products made in Australia by the STP participant and sold to unrelated or related parties at arm's length market prices in Australia, plus the free on-board value of steel products exported to entities overseas, whether related or unrelated to the STP participant; and

- (b) the amount of any indirect taxes incurred by the STP participant in respect of STP participant production in the half-year, and not recoverable by the STP participant.

B is the sum of the direct production costs in relation to eligible production, whether sold or not sold, being the following amounts:

- (a) the amount, based on recorded invoice prices or, if the products are produced by the STP participant, based on the cost incurred by the STP participant in the half-year for the purchase of products contributing to the STP participant's production, being scrap steel, coal, iron ore and the utilities of natural gas and electricity necessary for the production of marketable steel products to the point of sale;

- (b) the amount of any indirect taxes incurred by the STP participant in respect of STP participant production in the half-year, and not recoverable by the STP participant.

C is the participant's net inventory change from eligible production by the STP participant for STP participant production in the half-year, determined in accordance with Australian Accounting Standards.

- (3) For subsection (2), *steel products* includes slab, hot rolled coil, cold rolled coil, billets, blooms, ingots, rods, bar, hot rolled structural, merchant bar, plate and higher value added products such as coated and painted steel products, wire products, rail, rail wheels, pipe and tube products and grinding media.

- (4) For the purpose of working out, for the half-year, total revenue from sales from STP participant production, the sale price of the goods produced is taken to be:

- (a) if an invoice has been issued for the sale in the half-year—the invoice price; or
- (b) if a sale is taken to have occurred but no invoice has been issued—the arithmetic mean average invoice price, in the half-year, for products of that kind.

1.18 Working out production amounts for STP participants

As soon as practicable after an STP participant provides a return to the Secretary for a half-year, the Secretary must work out the production amount for the STP participant for the half-year, in accordance with the formula:

$$A \times 2.5\% - CA$$

where:

A is the maximum claimable value for eligible production for an STP participant in the half-year.

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C4 is the total amount of other Commonwealth assistance, if any, received by the STP participant in relation to the eligible production described in component *A* of the formula.

Note Section 7.3 sets out how the amount of other Commonwealth assistance is worked out.

Division 1.3 Determining eligible investments, eligible innovations and value of arm's length transactions

Subdivision 1.3.1 Recognising eligible investment and eligible innovation

1.19 When investment or eligible innovation is taken to have occurred

- (1) An investment in plant and equipment undertaken by an STP participant is taken to have occurred:
 - (a) if the investment is by way of acquiring the plant and equipment by purchase under a finance lease, operating lease or hire purchase agreement, other than under a sale and leaseback arrangement;
 - (i) at the time when the plant and equipment is recognised in the STP participant's accounts as an asset, or as an expense, in accordance with Australian Accounting Standards; or
 - (ii) if, at the time referred to in subparagraph (i), the plant and equipment is not in Australia—at the time when the plant and equipment is imported into Australia, or
 - (b) if the investment is by way of acquiring the plant and equipment under an operating lease:
 - (i) in relation to each payment of rent under the lease; or
 - (ii) if, at a time referred to in subparagraph (i), the plant and equipment is not in Australia—at the time when the plant and equipment is imported into Australia and in relation to each payment of rent under the lease after the plant and equipment has been so imported; or
 - (c) if the investment is by way of building or making the plant and equipment:
 - (i) at the time when the plant and equipment is recognised in the STP participant's accounts as an asset, or as an expense, in accordance with Australian Accounting Standards, or at the time when the plant or equipment is recognised in the STP participant's register of assets, whichever is the earlier; or

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- (ii) if the plant and equipment (the *new plant and equipment*) is part of an existing plant and equipment—at the time when the building or making of the new plant and equipment is recognised, in the STP participant's accounts, as an increase in asset value in accordance with Australian Accounting Standards, or at the time when the building or making of the new plant or equipment is recorded in the STP participant's register of assets, whichever is the earlier; or
- (d) if the investment is by way of acquiring a spare or replacement part mentioned in paragraph 1.9(3)(c)—at the time when the spare or replacement part is recognised in the STP participant's accounts as an asset, or as an expense, in accordance with Australian Accounting Standards.

- (2) An investment in plant and equipment undertaken by an STP participant by way of acquiring the plant and equipment under a sale and leaseback arrangement is taken to have occurred at the time when the previous investment would have been taken to have occurred under this plan.

- (3) Expenditure for eligible innovation incurred by an STP participant is taken to have occurred:

- (a) if the eligible innovation is conducted by the STP participant—on each occasion that expenditure incurred in relation to the eligible innovation is recognised, in the STP participant's accounts, in accordance with Australian Accounting Standards; or
- (b) if the expenditure is by way of eligible innovation conducted by another person (other than a Cooperative Research Centre) on behalf of the STP participant under a contract with the STP participant—on each occasion that a claim, enforceable by the other person against the STP participant, arises for any work done in relation to the eligible innovation; or
- (c) if the eligible innovation is conducted by a Cooperative Research Centre under a contract with the STP participant—on each occasion that the STP participant makes a contribution to the Centre in relation to the eligible innovation.

Subdivision 1.3.2 Arm's length transactions

1.20 Production value or sales value of eligible investment or eligible innovation, determined as if transaction at arm's length

- (1) If an STP participant sells a product, or any other goods, to another person, the production value or sales value of the product or goods is to be determined on the basis that the STP participant and other person are at arm's length.

(2) If an STP participant enters into a transaction with another person for the purpose of undertaking an eligible investment or eligible innovation, the value of the eligible investment or eligible innovation is to be determined on the basis that the STP participant and the other person are at arm's length.

1.21 Determining the circumstances when parties treated as not being at arm's length

- (1) The Secretary must decide that the parties to a transaction mentioned in subsection 1.20 (1) or (2) are to be treated as not being at arm's length if the parties are related or associated parties.
- (2) Without limiting subsection (1), parties are taken to be related or associated parties if:
 - (a) they are a group of related bodies corporate; or
 - (b) one party controls the other, within the meaning of section 50AA of the *Corporations Act 2001*; or
 - (c) both of the following apply:
 - (i) the parties are parties to a contract, arrangement or understanding containing a cartel provision, within the meaning of section 44ZZRD of Schedule 1 to the *Competition and Consumer Act 2010*;
 - (ii) one or more of the parties has been convicted of an offence under, or ordered to pay a pecuniary penalty for contravening, attempting to contravene or being involved in a contravention of, Division 1 of Part 1 of Schedule 1 to the Act in respect of the contract, arrangement or understanding.

1.22 Production value or sales value: parties treated as not being at arm's length

- (1) To determine what would have been the production value or sales value of products to which the transaction relates had the parties been at arm's length, the Secretary must:
 - (a) consider the value determined by the STP participant to be the production value or sales value; and
 - (b) either:
 - (i) accept the value determined by the STP participant; or
 - (ii) reject the value determined by the STP participant and determine a different value.
- (2) The STP participant and the Secretary must use a method set out in section 1.25 to determine the production value or sales value of the transaction.

1.23 Value of eligible innovation: parties treated as not being at arm's length

- (1) To determine what would have been the value of eligible innovation to which the transaction relates had the parties been at arm's length, the Secretary must:
 - (a) consider the value determined by the STP participant to be the value of eligible innovation; and
 - (b) either:
 - (i) accept the value determined by the STP participant; or
 - (ii) reject the value determined by the STP participant and determine a different value.

(2) The STP participant and the Secretary must use a method set out in section 1.25 to determine the value of the eligible innovation.

1.24 Value of investment: parties treated as not being at arm's length

- (1) To determine what would have been the value of investment to which the transaction relates had the parties been at arm's length, subsections (2) to (4) must be complied with.
- (2) If the value of investment estimated by the STP participant, using a method set out in section 1.25, is less than \$500 000, the Secretary must accept the value.
- (3) If the value of investment estimated by the STP participant, using a method set out in section 1.25, is \$500 000 or more:
 - (a) the STP participant must obtain a certification of the valuation from an independent valuer who is professionally qualified to make a certification in relation to investments in plant and equipment; and
 - (b) the Secretary must:
 - (i) accept the certification of the valuation by the STP participant's valuer; or
 - (ii) reject the certification by that valuer; and
 - (c) if the Secretary rejects the certification, the Secretary must attempt to arrange with the STP participant for another independent valuer to make a new valuation and certify the valuation; and
 - (d) if the Secretary and the STP participant do not agree on appointment of another independent valuer, the Secretary must arrange for an independent valuer to make a new valuation and certify the valuation.
- (4) If a new valuation is arranged under paragraph (3) (c) or (d), the Secretary must accept the value certified by the valuer as the value that would have been the value of investment in plant and equipment had the parties been at arm's length.

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1.25 Methods for determining value of transactions: parties treated as not being at arm's length

For sections 1.22 to 1.24, the table sets out methods for determining the value of a transaction (the *relevant transaction*).

Item	Method
1	<p>A method that involves:</p> <ul style="list-style-type: none"> (a) referring to the value of another transaction (a <i>comparable transaction</i>), between parties who are not related or associated parties, that: <ul style="list-style-type: none"> (i) is of the same kind as the relevant transaction; and (ii) takes place about the same time as the relevant transaction; and (iii) involves the same or similar terms as the relevant transaction; and (b) working out an adjusted value by adding to, or subtracting from, the value referred to in paragraph (a), any necessary adjustment to take into account any difference between the relevant transaction and the comparable transaction; and (c) determining the value the relevant transaction would have been, based on the adjusted values, had the parties been at arm's length
2	<p>A method, or combination of methods, that can accurately assess the value in the particular case and that takes into account the following:</p> <ul style="list-style-type: none"> (a) the kind of transaction; (b) the terms of the relevant transaction; (c) the business structure, strategy and processes of the STP participant; (d) the market conditions at the time of the relevant transaction; (e) other commercial and economic realities at the time of the relevant transaction; (f) whether the method, or combination of methods, produces the highest degree of comparability in the particular case

Part 2	Registration under plan
Division 2.1	Rules about registration

Section 2.1

Part 2 Registration under plan

Division 2.1 Rules about registration

2.1 Number of registrations available under plan

- (1) A registered eligible corporation may only have one current registration under the plan as an STP participant.
- (2) If an eligible corporation is registered as an STP participant under the plan, a group of related bodies corporate of which the STP participant is a member must not be registered as an STP participant while the registered eligible corporation is registered individually.
- (3) If an STP participant is a group of related bodies corporate, a member of the group must not be registered as an individual STP participant under the plan while:
 - (a) the member remains a member of the group; and
 - (b) the group is an STP participant.

2.2 Registration under plan must further object of Act

- (1) This section applies to an applicant for registration under the plan.
- (2) If a registered eligible corporation to which this section applies meets all of the requirements for registration as an STP participant under the plan, the Secretary, under section 2.10, must not grant the application for registration unless the Secretary is satisfied that registering the applicant would further the object set out in subsection 3 (1) of the Act.

Division 2.2 Applications for registration

2.3 Application for registration

- (1) An eligible corporation may apply to the Secretary for registration as an STP participant if, in the 12 months preceding that application, the corporation was an eligible corporation within the meaning of section 4 of the Act.
- (2) The application must be made in accordance with Division 2.4.

Division 2.3 Participation in plan by groups of companies

2.4 Group of companies may apply for registration as single entity

- (1) If a group, or a member of a group, of related bodies corporate is to operate as an STP participant, the group must apply to the Secretary for permission to seek registration as an STP participant as if the group were a single entity.
- (2) For subsection (1), acceptance of a competitiveness assistance advance by one of the group of related bodies is to be regarded as operating as an STP participant.
- (3) The application must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) contain such information as the form requires; and
 - (d) be accompanied by such documents as are necessary to establish that the companies are related; and
 - (e) without limiting the generality of paragraph (b), must nominate the member of the group who:
 - (i) is a resident of Australia; and
 - (ii) is to act as the nominated contact person; and
 - (iii) is to receive payments on behalf of the group.
- (4) For this section:
 - (a) a reference to an STP participant, if the STP participant is a group, is a reference to the group's subsidiaries, from time to time; and
 - (b) if an entity ceases to be part of the group, the entity ceases to be an STP participant from the time that it ceases to be part of the group.

2.5 Dealing with application by group of related bodies corporate

- (1) The Secretary:
 - (a) may consider an application by a group of related bodies corporate for permission to seek registration as an STP participant at the same time as considering an application by the group for registration, under section 2.10; and
 - (b) must determine whether to grant permission before the end of the consideration period referred to in subsection 2.10 (4).
- (2) The Secretary must grant permission if the Secretary is satisfied that:
 - (a) the group has provided the information and documents required by the approved form; and

- (b) the group is made up of related bodies corporate; and
- (c) no corporation in the group is registered as an STP participant, or is an applicant for registration as an STP participant, other than as a member of the group.
- (3) If the Secretary is not satisfied about a matter set out in paragraph (2) (a), (b) or (c), the Secretary must refuse permission.
- (4) A decision to grant permission must specify the conditions, if any, to which the application is subject.
- (5) A decision to grant permission takes effect:
 - (a) on a day specified in the decision; or
 - (b) if no day is specified—on the day on which the decision is given.

2.6 Legal status of a group permitted to make application for registration

- (1) If the Secretary grants a group permission to make an application to be registered as an STP participant, the matters in subsection (2) are to be determined:
 - (a) as if the group possessed legal personality; and
 - (b) as if any act or thing done by or to the nominated contact person were an act or thing done by or to the group.
- (2) For subsection (1), the matters are:
 - (a) the group's eligibility to make an application for registration; and
 - (b) if the application for registration is refused—the group's right to seek a review of the decision; and
 - (c) if the application for registration is granted—the group's rights and liabilities under the Act and this plan.
- (3) In dealing with an application by a group given permission to apply for registration as an STP participant, the Secretary may treat all acts or things done by or to members of the group as if they were acts or things done by or to the group considered together.
- (4) The Secretary may decide that the group is not a fit and proper person within the meaning of section 2.11 if, at any time, the Secretary is satisfied that, in relation to a group of companies given permission to seek registration as an STP participant, or in relation to a group of companies that are registered as an STP participant:
 - (a) any corporation in the group would not be a fit and proper person if that corporation were making application for registration in its own right; or

- (b) any director of a corporation in the group, or any officer or shareholder of a corporation in the group having the capacity to influence the management of that corporation, would not be a fit and proper person if that director, officer or shareholder were making an application for registration in his or her own right.

Division 2.4 Formal requirements for, and consideration of, applications for registration

2.7 Content of application for registration

- (1) An application for registration as an STP participant must:
- (a) be in writing; and
 - (b) be in an approved form; and
 - (c) be accompanied by such documentation (if any) as the form requires; and
 - (d) be signed in the manner indicated on the form; and
 - (e) be lodged in accordance with section 2.8.
- (2) Without limiting paragraph (1) (c), an application for registration must include:
- (a) information or documents as required by the form that relates to the applicant's capability to comply with the document retention obligations mentioned in section 2.17; and
 - (b) a business plan for the application that includes:
 - (i) details of the strategies that will enable the applicant to carry on efficient, sustainable operations in the Australian steel manufacturing industry for the period of the plan; and
 - (ii) operational plans, details of financial commitment and controls, financial projections and assumptions on which forecasts are based; and
 - (iii) details about how the applicant will meet the object of the Act to encourage investment, innovation and competitiveness in the Australian steel manufacturing industry in order to assist the industry to transform into an efficient and economically sustainable industry in a low-carbon economy in a way that will improve environmental outcomes and promote the development of workforce skills; and
 - (iv) any other particulars or information mentioned in paragraph (2) (a), in relation to the period or periods specified in the form.
- (3) A business plan for an application must be lodged on or before 30 September of the STP year in which registration is sought.

- (4) For subparagraph (2) (iv), a period specified in the form in relation to a business plan may commence on or after 1 July of the STP year in which registration is sought.

2.8 Lodgement of applications

- (1) An application for registration as an STP participant must be lodged in accordance with this section.
- (2) The application may:
- (a) be left at a place allocated for lodgement of applications specified in the approved form; or
 - (b) be posted by pre-paid post to a postal address specified in the approved form; or
 - (c) be sent by fax to a fax number specified in the approved form; or
 - (d) be sent to the Department by electronic transmission.

2.9 When to apply

- (1) A person may apply for registration before 1 July of the STP year for which registration is sought.
- (2) The Secretary must not accept an application for registration for an STP year after 1 July of that year.

2.10 Consideration of registration applications

- (1) The Secretary must examine each application for registration and, as soon as practicable, before the end of the consideration period, decide whether to grant the application.
- (2) If the Secretary is satisfied:
- (a) that the applicant is a corporation that is eligible to apply for that registration; and
 - (b) that the applicant has provided the information and documents (if any) required by the approved form; and
 - (c) that the applicant is able to comply with the relevant document retention obligations set out in section 2.17; and
 - (d) that the corporation is a fit and proper person; and
 - (e) that each of the directors, and each officer or shareholder who is in a position to influence the management of the corporation, is a fit and proper person; and
 - (f) that registering the applicant would, as required by subsection 2.2 (2), further the object set out in subsection 3 (1) of the Act;
- the Secretary must grant the application and inform the applicant accordingly.

Registration under plan	Part 2
Formal requirements for, and consideration of, applications for registration	Division 2.4
	Section 2.11

Note Section 2.11 sets out the matters to which the Secretary must have regard in determining whether a person is a fit and proper person.

- (3) If the Secretary is not satisfied of a matter set out in paragraphs (2) (a) to (f), the Secretary must refuse the application and inform the applicant in accordance with subsection 6.1 (1).
- (4) For subsection (1), the consideration period is the period starting on the day the application is lodged and ending:
 - (a) unless paragraph (b) applies—60 days after that day; or
 - (b) if the Secretary requires the applicant, under section 2.12, to provide further information by a specified day and the applicant duly provides the information or explains why the information cannot be provided—at the end of the period of 60 days referred to in paragraph (a), extended by the period taken to comply with the requirement or provide the explanation.

2.11 Fit and proper person

- (1) For paragraph 2.10 (2) (d), in determining whether a corporation is a fit and proper person, the Secretary must have regard to the following matters:
 - (a) any conviction of the corporation for an offence punishable by a fine of \$5 000 or more:
 - (i) against a law of the Commonwealth; or
 - (ii) against a law of a State or Territory;
 - (b) any conviction of the corporation for an offence against the law of a foreign country for an offence punishable by a fine in foreign currency equivalent to or more than \$5 000;
 - (c) whether that offence was committed:
 - (i) within the 10 years immediately before the application for registration under the plan; and
 - (ii) at a time when any person who is presently a director of the corporation, or an officer or shareholder of the corporation who presently is in a position to influence the management of the corporation, was such a director, officer or shareholder;
 - (d) whether the corporation is under administration, within the meaning of the *Corporations Act 2001*;
 - (e) whether the corporation has executed a deed of company arrangement under Part 5.3A of that Act that has not yet terminated;
 - (f) the corporation is being wound up;
 - (g) whether a receiver of the property, or part of the property, of the corporation has been appointed.

Registration under plan	Part 2
Formal requirements for, and consideration of, applications for registration	Division 2.4
	Section 2.12

- (2) For paragraph 2.10 (2) (e), in determining whether a person is a fit and proper person, the Secretary must have regard to the following matters:
 - (a) any conviction of the person for an offence punishable by imprisonment for one year or longer:
 - (i) against a law of the Commonwealth; or
 - (ii) against a law of a State or Territory;
 - (b) if that offence was committed within the 10 years immediately before the application for registration under the plan;
 - (b) any conviction of the person of an offence against the law of a foreign country if that offence was committed within the 10 years immediately before the application for registration under the plan;
 - (c) whether the person is an insolvent under administration;
 - (d) whether a misleading statement was made by, or in relation to, the person in the application for registration;
 - (e) if the misleading statement was false, whether the person making the statement knew that it was false.
- (3) Nothing in this section affects the operation of Part VIIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

2.12 Secretary may seek further information

- (1) If the Secretary, on examination of an application, considers that he or she needs further information before being able to make a decision under subsection 2.10 (1), the Secretary may, by notice in writing given to the applicant, require the applicant to provide the information to the Secretary within a period specified in the notice.
- (2) If the applicant fails or refuses, within the period specified, either to provide the further information or a reasonable explanation as to why it cannot be provided, the applicant is taken, at the end of that period, to have withdrawn the application.

2.13 Period of effect of registration

If an application for registration is granted, the registration has effect:

- (a) on and from 1 July of the STP year in relation to which it is made; and
- (b) unless the STP participant is deregistered under Division 2.6—for the duration of the plan.

2.14 Registration does not confer entitlement

Registration under the plan does not, by itself, confer an entitlement on an STP participant to assistance under the plan.

Division 2.5 Conditions of registration

2.15 General compliance

It is a condition of registration for an STP participant that the STP participant complies with the requirements of the Act and the plan.

2.16 Condition of eligible corporation registration

It is a condition of registration for a registered eligible corporation to meet the requirements mentioned in the definition of *eligible corporation* in the Act and otherwise conform with the Act and the plan.

2.17 Document retention obligations

- (1) It is a condition of registration that an STP participant must maintain, or create and maintain, documents that evidence all the particulars contained in each half-yearly return provided by the STP participant.
- (2) The documents must be maintained by the STP participant for 5 years after the lodging of the return concerned.
- (3) A person is taken to have complied with the requirements under subsection (1) if:
 - (a) the STP participant is required to give to another person a document that must be maintained under subsection (1):
 - (i) by a law of the Commonwealth, of a State or a Territory; or
 - (ii) in accordance with ordinary commercial practice; and
 - (b) after giving the document to that other person, the STP participant maintains a true copy of the document certified in accordance with subsection (4) for the period that the document would be required to be maintained under subsection (2).
- (4) The STP participant may certify a true copy of the document for the purposes of subsection (3) by attaching to the copy a certificate signed by the STP participant:
 - (a) stating that the copy is a true copy of the original document; and
 - (b) stating that the original document has been given to another person for a reason set out in that subsection; and
 - (c) providing particulars of that reason.

Note Section 8.3 imposes an ongoing obligation to retain certain records after a person ceases to be an STP participant.

2.18 Update of business plan

- (1) It is a condition of registration that an STP participant provide the Secretary with an update of the business plan provided by the STP participant under subsection 2.7 (3), in accordance with the approved form.

(2) The update must include:

- (a) details about how the STP participant is meeting the object set out in subsection 3 (1) of the Act, particularly in regard to an efficient and economically sustainable industry; and
 - (b) information concerning any activities of the STP participant directed to improving environmental outcomes and promoting the development of workforce skills; and
 - (c) any other information for the relevant STP year that is required in the approved form.
- (3) The STP participant must provide the update within 60 days, or such longer period as the Secretary allows, after the end of June in the STP year in which the STP participant is registered.
 - (4) Each update must cover the 4 years immediately succeeding the update.

Division 2.6 Deregistration

2.19 Deregistration

- (1) The reasons for deregistration are set out in this section.
- (2) The Secretary may deregister an STP participant if, at any time the Secretary is satisfied that the STP participant is not likely, or has failed, to comply with a condition of registration in Division 2.5.
- (3) The Secretary must deregister an STP participant if, at any time:
 - (a) the Secretary is satisfied that, were the STP participant to be applying for registration at that time, the STP participant would not be a fit and proper person, within the meaning of section 2.11; or
 - (b) the STP participant asks the Secretary to be deregistered as an STP participant.
- (4) In determining whether or not, if an STP participant were applying for registration at a particular time, the STP participant would or would not be a fit and proper person within the meaning of section 2.11, that section has effect as if a misleading statement made in a half-yearly return were a misleading statement made in the application for registration.
- (5) The Secretary may deregister an STP participant if the STP participant fails to comply with a provision of the Act or this plan or if, at any time during the 12 months following the application for registration, the Secretary determines that it is unlikely that the STP participant will be able to do those things.

- (6) The Secretary may deregister an STP participant if:
- (a) the STP participant was registered on the basis that the STP participant's registration would further the object set out in subsection 3 (1) of the Act (as required by subsection 2.2 (2)); and
 - (b) the registration does not further the object of the Act.

Part 3 Working out half-yearly assistance for an STP participant

3.1 Secretary to work out assistance for STP participants

Subject to section 4.7, the Secretary must work out assistance for STP participants in accordance with the relevant steps set out in this Part.

3.2 Working out assistance for STP participant for half-year

- (1) To work out the half-yearly assistance for an STP participant, for the first half-year in an STP year, the Secretary must use steps 1, 2, 3, 5 and 6 in subsection (4).
- (2) To work out the half-yearly assistance for an STP participant for the second half-year in an STP year, the Secretary must use steps 1, 2, 4, 5 and 6 in subsection (4).

- (3) The Secretary must work out the half-yearly assistance for the STP participant as soon as practicable after the last day on which a return may be made by the STP participant under section 4.1 for the half-year.

Note Payments are made in accordance with Division 4.3.

- (4) The steps are:

Step 1 Work out investment amount, innovation amount and production amount for a half-year for the STP participant

- 1(a) Work out the investment amount for the STP participant for the half-year of the STP year under Subdivision 1.2.2.
- 1(b) Work out the innovation amount for the STP participant for the half-year of the STP year under Subdivision 1.2.3.
- 1(c) Work out the production amount for the STP participant for the half-year of the STP year under Subdivision 1.2.4.
- 1(d) Add together the amounts worked out in steps 1(a), (b) and (c) to obtain the total amount for the STP participant.

Step 2 Work out the modulated claim for an STP participant

- 2(a) Determine the amount of assistance available for the STP participant for the STP year calculated under section 4.7.
- 2(b) Divide the result of step 2(a) by 2.
- 2(c) If the amount worked out in step 2(b) is greater than the amount worked out in step 1(d), the modulated amount is the amount worked out in step 1(d). If the amount worked out in step 2(b) is less than the total amount worked out in step 1(d), the modulated amount is the amount worked out in step 2(b).

Working out half-yearly assistance for an STP participant	Part 3	Section 3.2
Step 3 Limit the modulated claim for an STP participant for the first half-year in an STP year		
3(a) Determine the sales-based cap for the STP participant under section 4.8.		
3(b) If the sales-based cap for the STP participant is greater than the amount worked out in step 2(c), the limited modulated amount is the amount worked out in step 2(c). If the sales-based cap for the STP participant is less than the modulated amount worked out in step 2(c), the limited modulated amount is the sales-based cap for the STP participant determined in step 3(a).		
Step 4 Limit the modulated claim for an STP participant for the second half-year in an STP year		
4(a) Determine the amount of assistance paid to the STP participant in the half-year preceding the current half-year.		
4(b) Add the amount worked out in step 2(c) to the amount determined in step 4(a). If the sales-based cap for the STP participant determined under section 4.8 is greater than the amount worked out in step 4(b), the limited modulated amount is the result worked out in step 2(c). If the sales-based cap for the STP participant determined under section 4.8 is less than the modulated amount worked out in step 4(b), the limited modulated amount is obtained by subtracting the amount determined in step 4(a) from the sales-based cap for the STP participant.		
Step 5 Reduce limited modulated claim by the amount of competitiveness assistance advance payments made to the STP participant		
5(a) Determine the total amount of entitlements in steps 3(b) and 4(c) for the STP participant in previous half-years.		
5(b) Determine the total amount of competitiveness assistance advance payments made to the STP participant.		
5(c) Subtract the amount determined in step 5(a) from the amount determined in step 5(b).		
5(d) Determine the limited modulation amount for the STP participant for the half-year from step 3(b) (for the first half-year of an STP year) or step 4(c) (for the second half-year of an STP year).		
5(e) Subtract the amount determined in step 5(c) from the amount determined in step 5(d). If the result is zero or less, then the amount for step 5(c) is zero.		
5(f) If the amount worked out in step 5(e) is greater than zero, the reduced claim for the STP participant is the amount worked out in step 5(e). If the amount worked out in step 5(e) is not greater than zero, the reduced claim for the STP participant for the current half-year is zero.		
Step 6 Work out the amount of assistance to be paid to the STP participant in the current half-year		
6(a) Determine the plan debt offset amount for the current half-year.		
6(b) Determine the advance debt offset amount for the current half-year.		
6(c) Determine the plan debt cash amount for the current half-year.		
6(d) Determine the advance debt cash amount for the current half-year.		
6(e) Calculate the total debt amount by adding the results of steps 6(a), (b), (c) and (d).		

Section 3.2

6(f) If the amount worked out in step 5(f) is greater than zero, the total amount of assistance to be paid to the STP participant for the current half-year is the amount worked out by subtracting the amount worked out in step 6(e) from the amount worked out in step 5(f). If the amount worked out in step 5(f) is not greater than zero, the total amount of assistance to be paid to the STP participant for the current half-year is zero. If the amount worked out in step 5(f) less the amount worked out in step 6(e) is less than zero, the total amount of assistance to be paid to the STP participant for the current half-year is zero.

(5) In this section:

advance debt cash amount means the amount of competitiveness assistance advance that is payable to, or recoverable by, the Commonwealth as a debt, under section 29 of the Act.

advance debt offset amount means the amount of competitiveness assistance advance that is being recovered by offsetting, under section 4.11 or 5.2.

plan debt cash amount means the amount of assistance that is a plan debt under section 5.1.

plan debt offset amount means the amount of assistance that is a plan debt that is being recovered by offsetting, under section 5.2.

Part 4 Payments under plan

Division 4.1 Making of half-yearly returns

4.1 STP participants to make half-yearly returns

- (1) An STP participant must provide a return to the Secretary within 60 days (or within such longer period as the Secretary, in special circumstances, allows) after the end of each half-year in an STP year.
- (2) Each half-yearly return must:
 - (a) be made in writing, in a manner set out in subsection (3); and
 - (b) be in an approved form.
- (3) An STP participant must make a half-yearly return by one of the following means:
 - (a) if the approved form for the half-yearly return specifies a place where returns may be made—by leaving the return at that place;
 - (b) if the approved form specifies a postal address to which a return may be posted—by sending the return by prepaid post to that address;
 - (c) if the approved form specifies a fax number to which a fax of the return can be sent—by sending a fax of the return to that number;
 - (d) if the Department establishes or modifies an information system (within the meaning given by subsection 5 (1) of the *Electronic Transactions Act 1999*) to receive an electronic communication of the return—by sending the return by electronic communication in a manner indicated in the approved form or otherwise approved by the Secretary.

4.2 Making half-yearly return does not confer entitlement

The making of a half-yearly return under the plan does not, by itself, confer an entitlement on an STP participant to assistance under the plan.

4.3 Contents of STP participant's return

- An STP participant's half-yearly return must set out:
- (a) particulars of all of the STP participant's eligible production achieved by the STP participant in that half-year and the production value of that production; and
 - (b) particulars of the expenditure on eligible innovation and eligible investment undertaken by the STP participant in that half-year; and

- (c) particulars of the sales value of the production of steel products by the STP participant in that half-year; and
- (d) particulars of any other Commonwealth assistance mentioned in section 7.1, provided in relation to the production referred to in paragraph (a) and the innovation and investment referred to in paragraph (b); and
- (e) any other particulars required by the form.

Note Section 1.17 provides for working out the maximum claimable value for STP production.

4.4 Rules concerning returns

- (1) An STP participant may, in providing a return for a half-year for an STP year, provide details of any of the following matters that the STP participant failed to provide in any earlier return for a half-year in the same STP year:
 - (a) any production achieved by the STP participant;
 - (b) any eligible investment undertaken;
 - (c) any eligible innovation undertaken;
 - (d) any sales value achieved.
- (2) If the item is covered in a later return as provided for in subsection (1), it is to be treated, for all purposes of the plan, as if it were achieved or undertaken in the half-year in which it is reported and not in the half-year in which it was actually achieved or undertaken.
- (3) If the item is not covered in a later return as provided for in subsection (1), it is to be treated, for all purposes of the plan, as if it had never been achieved, undertaken or spent.
- (4) For the purposes of this plan:
 - (a) if the return for the final half-year of an STP year does not include details of production achieved by the STP participant in that half-year or the earlier half-year of the STP year, the production is to be treated as if it had never been achieved; and
 - (b) if the return for the final half-year of an STP year does not include details of eligible investment undertaken by the STP participant in that half-year or the earlier half-year of the STP year, the investment is to be treated as if it had never been undertaken; and
 - (c) if the return for the final half-year of an STP year does not include details of eligible innovation undertaken by the STP participant in that half-year or the earlier half-year of the STP year, the innovation is to be treated as if it had never been undertaken; and
 - (d) if the return for the final half-year of an STP year does not include details of sales value achieved by the STP participant in that half-year or the earlier half-year of the STP year, the sales value is to be treated as if it had never been achieved.

4.5 Further information about half-yearly return

- (1) The Secretary may send a written notice to an STP participant who has lodged a half-yearly return, requiring the STP participant to provide the information specified in the notice by the day specified in the notice.
- (2) The STP participant must comply with a notice under subsection (1) within the time specified by the Secretary in the notice.
- (3) The Secretary is not required to assess the return, or make a payment of assistance, until the STP participant complies with the notice.

Division 4.2 Caps on plan and STP participants

4.6 Capped assistance for STP years

Subject to section 1.3 of the Act, for each STP year of the plan mentioned in the table below, the Secretary must not make a payment of assistance that in total exceeds the amount specified for the STP year (the *STP year cap*).

STP year	STP year cap (\$)
1	75 million
2	75 million
3	75 million
4	75 million

Note 1 Subsection 1.3 (1) of the Act provides that total assistance under the plan must not exceed \$300 million.

Note 2 Subsection 1.3 (4) of the Act allows payment of unspent assistance in a later plan year.

4.7 Annual assistance divided between STP participants

- (1) Assistance for an STP participant for an STP year is to be calculated by multiplying the amount of the STP year cap by the percentage of that amount available to the STP participant, and then adding any amount not spent in any previous year by the corporation.
- (2) For subsection (1):
 - (a) the percentage of the STP year cap available to an STP participant is to be the same as the percentage of the total available competitiveness assistance advances received by the STP participant; and
 - (b) any amounts recovered by the Commonwealth under the plan are not included in the total available competitiveness assistance advances received by the STP participant.
- (3) A competitiveness assistance advance that has been paid for an STP year must be acquired before an STP participant receives any further financial assistance under the plan.

- (4) If an STP participant does not utilise the STP year cap for an STP year:
 - (a) the amount of the STP year cap that is not utilised must be added to the STP year cap, for the STP participant, for the following STP year; and
 - (b) the failure of the STP participant to utilise the STP year cap will not affect the STP assistance available, in the STP year, to support any other STP participant.

Note It is intended by the application of this formula that the quantity of STP funding allocated to each entry under the plan each year will be set out at the beginning of the 4-year period and fixed at the level determined by this formula.

4.8 Sales-based cap for payment of assistance

For an STP year, the payment of assistance under the plan to an STP participant must not exceed 5% of the sales value of the STP participant's production for the previous financial year.

Note Under sections 1.7 and 1.8, a sale between members of a group may be included in the sales value for this section, if the sale is made at arm's length.

Division 4.3 Making of payments of assistance

4.9 Half-yearly payments

- (1) An STP participant is entitled to an STP payment for a half-year if the STP participant has:
 - (a) made an eligible investment or undertaken eligible innovation or eligible production in accordance with Division 1.2; and
 - (b) made a return for the half-year within the time permitted under subsection 4.1 (1); and
 - (c) complied with the conditions of registration set out in Division 2.5.
- (2) If the Secretary decides that an STP participant is entitled to be paid assistance for the half-year under subsection (1), the Secretary must make a payment of assistance for the half-year to the STP participant, worked out in accordance with Part 3.
- (3) The payment under subsection (2) must be made before the end of the following half-year.
- (4) Subject to Part 6, payments of assistance for the second half-year of an STP year must not be made after 31 December of the year following the half-year.

Note The table below sets out when payments are to be made for eligible investment, innovation or production in an STP year.

STP YEAR

- 1 1 January 2013-31 December 2013
- 2 1 January 2014-31 December 2014

Payments under plan	Part 4
Limit on entitlement to assistance	Division 4.4
	Section 4.12

- 3 1 January 2015-31 December 2015
4 1 January 2016-31 December 2016

(5) If the Secretary decides that the STP participant is not entitled to be paid assistance in relation to a period covered by a half-yearly return, the Secretary must give the STP participant a notice in accordance with subsection 6.1 (1).

Note Section 6.1 deals with the right of an STP participant to have a decision reviewed.

4.10 Inalienability of payments

- (1) A payment of assistance under the plan may only be made to an STP participant.
- (2) An STP participant's payment, or entitlement to a payment, is inalienable, except with the written approval of the Secretary.
- (3) To avoid doubt, subsection (2) prohibits a transfer by means of, or in consequence of, a sale, assignment, charge, execution, bankruptcy, insolvency, or by any other means.

4.11 Condition of payment of assistance

- (1) A payment of assistance to an STP participant may only be made on the condition that all or part of the payment may be offset or recovered by the Commonwealth.

- (2) The Secretary may refuse to make a payment of assistance if the Secretary is satisfied that the STP participant has failed, or is likely to fail, to comply with the conditions of registration.

Note It is intended that, if necessary, competitiveness assistance advances paid to an eligible corporation may be recovered by way of offset—see subsection 6 (4) of the Act.

Division 4.4 Limit on entitlement to assistance

4.12 Persons not entitled to certain assistance

- (1) A person who has been paid assistance under the plan is not entitled to the assistance if the person received the payment for any of the following reasons:
- (a) because of an error made in calculating the amount of the payment (including during the modulation process) or a mistake of fact;
- (b) because information given to the Minister, Secretary or a delegate of the Secretary was inaccurate or incomplete;
- (c) because of a clerical error or mistake;

Payments under plan	Part 4
Limit on entitlement to assistance	Division 4.4
	Section 4.12

(d) because the payment:

- (i) was for a transaction for which the person was a party that was not at arm's length within the meaning of Subdivision 1.3.2; and
- (ii) is referable to a production value, sales value, innovation or investment to which the transaction relates that has not been determined as if the parties were at arm's length.

- (2) A person who has been paid assistance under the plan is not entitled to the assistance if the payment was made for an innovation, investment or production that was not an eligible innovation, eligible investment or eligible production.

- (3) The Secretary may determine that a person is not entitled to assistance under the plan if:

- (a) the person has been paid certain assistance under the plan; and
- (b) an authorised officer, under section 18 of the Act, asks the person:
- (i) to answer a question relating to the assistance; or
- (ii) to produce a document relating to the assistance; and
- (c) the person does not answer the question or produce the document when asked.

- (4) If the Secretary decides that an STP participant was not entitled to be paid assistance under the plan, the Secretary must give the STP participant notice in accordance with subsection 6.1 (1).

Note Section 6.1 deals with the right of an STP participant to have a decision reviewed.

Section 5.3

Part 5 Recovery of overpayments

5.1 Plan debt

- (1) All or part of an amount of a half-yearly payment of assistance to an STP participant that exceeds the amount to which the STP participant is entitled is recoverable by the Commonwealth as a debt due to the Commonwealth in a court of competent jurisdiction and is to take precedence over other debts that the participant may owe the Commonwealth under the Act.
- (2) A debt under subsection (1) is a *plan debt*.

5.2 Recovery by offsetting

- (1) If an STP participant is liable to pay a plan debt, the plan debt may be offset against one or more half-yearly payments of assistance to which the STP participant is currently entitled under the plan.
- (2) The Secretary may refuse to make a recovery under subsection (1) if the Secretary believes that the STP participant is unlikely to have sufficient entitlements in future half-years to cover the plan debt and any interest payable under section 5.4.

Note It is intended that, if necessary, competitiveness assistance advances paid to the eligible corporations may be recovered by way of offset—see subsection 6 (4) of the Act.

5.3 Secretary to issue notice

- (1) If the Secretary determines that there is a plan debt in relation to an STP participant, the Secretary must give the STP participant a notice in writing setting out the following matters:
 - (a) the amount of the STP participant's plan debt;
 - (b) the interest payable on the plan debt under section 5.4;
 - (c) the requirement that the plan debt and interest payable:
 - (i) be paid, no more than 30 days after the day on the notice; or
 - (ii) be recovered by offsetting, under section 5.2, in the next half-year and any subsequent half-year (where the STP participant's entitlement in the next half-year is insufficient to cover the plan debt);
 - (d) if the STP participant chooses recovery by offsetting under section 5.2—the requirement that the STP participant make a request for offsetting to the Secretary no more than 30 days after the day on the notice.
- (2) If the STP participant:
 - (a) does not comply with the notice under subsection (1); and

Section 5.4

- (b) has not made an application for review of the Secretary's decision under subsection (1) in the time specified in paragraph 6.1 (4) (c); the plan debt may be offset under section 5.2.

5.4 Interest payable on plan debt

- (1) If an STP participant has a plan debt, interest is payable on the debt in accordance with this section.
- (2) The amount of interest payable on the plan debt is the 90 day bank accepted bill rate, less 10 basis points, worked out on the debt from the day the assistance was paid to the STP participant, if:
 - (a) the STP participant pays the plan debt and interest worked out under this subsection no more than 30 days after the day on the notice mentioned in section 5.3; or
 - (b) each of the following occurs:
 - (i) the STP participant requests, no more than 30 days after the day on the notice mentioned in section 5.3, that the plan debt be recovered by offsetting under subsection 5.2 (1);
 - (ii) the Secretary accepts that request; or
 - (iii) each of the following occurs:
 - (i) the STP participant obtains an extension of time under section 5.5;
 - (ii) the STP participant pays the plan debt and interest within the extended time.
- (3) If the STP participant's request for recovery by offsetting under subsection 5.2 (1) is refused, or the plan debt or interest payable under subsection (2) has not been paid by the payable day, the amount of interest payable on the plan debt is the sum of:
 - (a) the amount worked out at the rate set out in subsection (2), payable on the plan debt from the day the assistance was paid to the STP participant until the end of the payable day; and
 - (b) the amount worked out at the rate of 20% per year on:
 - (i) any part of the plan debt that is unpaid at the end of the payable day; and
 - (ii) any part of the interest mentioned in paragraph (a) that is unpaid at the end of the payable day until the debt and interest are paid in full.
- (4) In this section:

payable day means:

 - (a) the day that is 30 days after the day on the notice mentioned in section 5.3; or
 - (b) the day that payment has been extended to under section 5.5.

Section 5.5

- (5) However, interest is not payable on the plan debt if:
- (a) the Secretary is satisfied that the payment of interest would cause the STP participant financial hardship; or
 - (b) the Secretary is satisfied that there was an error made by the Department in the payment of the assistance, and the Department has corrected the error.
- (6) Interest payable under this section is recoverable by the Commonwealth as a debt due to the Commonwealth.
- (7) Interest payable under this section for a plan debt must be paid in cash and not be offset under section 5.2.

5.5 Extension of time for payment of plan debt

- (1) The Secretary may extend the time for payment of a plan debt and interest payable under subsection 5.4 (2).
- (2) The following provisions apply in relation to extensions of time under subsection (1):
- (a) the STP participant liable to pay the debt may apply for an extension;
 - (b) an application is to be in writing, setting out the reasons for the application, and it is to be made to the Secretary;
 - (c) the Secretary's decision on the application is to be in accordance with subsection 6.1 (1).

Section 6.1

Part 6 Administrative review of decisions

6.1 Request for reconsideration of decision by Secretary

- (1) If the Secretary makes a decision of a kind mentioned in section 6.3 or 6.6, the Secretary must give the person affected by the decision notice in writing of the decision setting out the reasons for the decision.
- (2) The notice must include a statement to the effect that:
- (a) if the person is dissatisfied with the decision, the person may request a reconsideration of the decision by the Secretary; and
 - (b) if the person is dissatisfied with a decision made by the Secretary on that reconsideration confirming or varying the first decision, the person, subject to the *Administrative Appeals Tribunal Act 1975*, may apply to the Administrative Appeals Tribunal for a review of the decision.
- (3) If the person affected by a decision of the Secretary is dissatisfied with the decision, the person may request the Secretary to reconsider the decision.
- (4) A request must:
- (a) be in writing; and
 - (b) set out the reasons for the request; and
 - (c) be given to the Secretary within 30 days after the person is notified of the decision or within such further period as the Secretary allows.

6.2 Reconsideration by Secretary

- (1) On receiving a request from a person under subsection 6.1 (3), the Secretary must reconsider the decision.
- (2) The Secretary may:
- (a) confirm or revoke the decision; or
 - (b) vary the decision in such manner as the Secretary thinks fit.
- (3) If the Secretary does not confirm, revoke or vary the decision before the end of the period of 30 days after the day on which the Secretary receives the request, the Secretary is taken, at the end of that period, to have confirmed the decision.
- (4) The confirmation, revocation or variation under subsection (2) of a decision is not invalid merely because it is done after the end of the period referred to in subsection (3) unless, before it is done, the applicant makes an application to the Administrative Appeals Tribunal under subsection (7) for review of the decision.

Section 6.4

- (5) If the Secretary confirms, revokes or varies the decision before the end of the period mentioned in subsection (3), the Secretary, by notice in writing given to the person, must inform the person of the result of the reconsideration of the decision and the reasons for confirming, revoking or varying the decision.
- (6) The notice must include a statement to the effect that if the person is dissatisfied with the decision so confirmed or varied, the person, subject to the *Administrative Appeals Tribunal Act 1975*, may apply to the Administrative Appeals Tribunal for a review of the decision.
- (7) An application may be made to the Administrative Appeals Tribunal for a review of the decision within 28 days after the person is given notice of the decision or, if subsection (3) applies, within 28 days of the day the decision is taken to be confirmed.

6.3 Review of decisions affecting payment of assistance

Application may be made to the Administrative Appeals Tribunal for the review of the following decisions:

- (a) a decision by the Secretary under subsection 1.21 (1) that a person was a party to a transaction that was not at arm's length, within the meaning of that section;
- (b) a decision by the Secretary under subsection 1.22 (1) about the production value or sales value of steel products to which a transaction that has been determined as not being at arm's length relates;
- (c) a decision by the Secretary under subsection 4.9 (5) that an STP participant is not entitled to an STP payment in relation to a period covered by a half-yearly return;
- (d) a decision by the Secretary under subsection 4.11 (2) to refuse payment of assistance to an STP participant;
- (e) a decision by the Secretary under section 4.12 that an STP participant is not entitled to be paid assistance under the plan;
- (f) a decision by the Secretary under subsection 5.3 (1) that a person is liable to pay an amount of plan debt.

6.4 Limitations on implementation of court decisions concerning payment of assistance

- (1) If, in relation to a decision (the *original decision*) set out in section 6.3:
 - (a) application is made for review of the original decision to:
 - (i) the Federal Court of Australia or the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977*; or
 - (ii) the Federal Court of Australia under section 39B of the *Judiciary Act 1903*; and

Section 6.5

- (b) the court makes a decision in favour of the applicant for review, the limitations set out in the following subsections apply to the implementation of the court's decision concerning the original decision.
- (2) The court's decision has effect on and from the day that the court makes its decision and not before that date.
- (3) If the applicant for review is an STP participant at the time that the court's decision concerning his or her application is made:
 - (a) the decision can only be given effect to if the applicant's sales-based cap for payment of assistance for the STP year in which the original decision was made has not been reached; and
 - (b) if the limit has not been reached, the decision can only be given effect to the extent of the sales-based cap.

Note The sales-based cap for STP participants is set out in section 4.8.

6.5 Limitations on implementation of AAT decisions concerning payment of assistance

- (1) If, in relation to a decision (the *original decision*) set out in section 6.3:
 - (a) application is made to the Administrative Appeals Tribunal (*AAT*) for review of the original decision; and
 - (b) the AAT makes a decision in favour of the applicant, the limitations set out in the following subsections apply to the implementation of the AAT's decision concerning the original decision.
- (2) Despite subsection 4.3 (6) of the *Administrative Appeals Tribunal Act 1975*, the AAT's decision has effect on and from the day that the AAT makes its decision and not before that date.
- (3) If the applicant for review is an STP participant at the time that the AAT's decision concerning his or her application is made:
 - (a) the decision can only be given effect to if the applicant's sales-based cap for payment of assistance for the STP year in which the original decision was made has not been reached; and
 - (b) if the limit has not been reached, the decision can only be given effect to the extent of the sales-based cap.

Note The sales-based cap for STP participants is set out in section 4.8.

6.6 Review of other decisions

Application may be made to the Administrative Appeals Tribunal for the review of the following decisions by the Secretary:

- (a) a decision under subsection 2.2 (2) that registering the applicant would not further the object set out in subsection 3 (1) of the Act;

Section 6.6

- (b) a decision under subsection 2.5 (3) to refuse permission to a group of companies to seek registration as an STP participant as if it were a single person;
- (c) a decision under subsection 2.6 (4) that an STP participant's group is not a fit and proper person;
- (d) a decision under subsection 2.10 (3) to refuse to register an eligible corporation as an STP participant;
- (e) a decision under section 2.11 that a person is not a fit and proper person;
- (f) a decision under subsection 2.19 (2) or (3) to deregister an STP participant;
- (g) a decision under subsection 5.2 (2) to refuse recovery of a plan debt by offsetting;
- (h) a decision under subsection 5.4 (5) that the payment of interest would not cause the STP participant financial hardship;
- (i) a decision under section 5.5:
 - (i) to refuse an application for an extension of time for the payment of a plan debt; or
 - (ii) to grant a lesser extension than that applied for.

Section 7.1

Part 7 Other Commonwealth assistance

7.1 Meaning of other Commonwealth assistance

- (1) For the plan, an STP participant has received *other Commonwealth assistance* if the participant has received, and is entitled to, financial assistance from the Commonwealth (other than assistance under the plan) in relation to eligible production, or to eligible investment or eligible innovation, of a kind giving rise to an entitlement to an amount under the plan.
- (2) For subsection (1), other Commonwealth assistance includes financial assistance from the Commonwealth that an STP participant is taken to have received, and to which the STP participant was entitled, in relation to unsold products.
- (3) For subsection (1), the following forms of assistance are not other Commonwealth assistance:
 - (a) assistance under the Act;
 - (b) assistance under the plan;
 - (b) assistance mentioned in section 7.2.

7.2 Other Commonwealth assistance that is not financial assistance

For the plan, the following forms of assistance provided by the Commonwealth are not financial assistance:

- (a) the income tax incentive (the *R&D tax incentive*) in relation to research and development activities, under the following provisions:
 - (i) Division 355 of the *Income Tax Assessment Act 1997*;
 - (ii) Subdivision 20-A of the *Income Tax Assessment Act 1997*;
 - (iii) Part III of the *Industry Research and Development Act 1986*;
- (b) financial assistance under Part 4 of the *Renewable Energy (Electricity) Act 2000*;
- (c) financial assistance under the following Commonwealth Government programs:
 - (i) the program known as Commercialisation Australia;
 - (ii) the program known as the Cooperative Research Centres program;
 - (iii) the program known as the Jobs and Competitiveness Program;
 - (iv) the program known as the Automotive Transformation Scheme.

7.3 Working out the amount of other Commonwealth assistance

- (1) For section 7.1, the amount of other Commonwealth assistance received by an STP participant in relation to eligible innovation is worked out using the formula:

$$A \times 40\%$$

where:

A is the total amount of the other Commonwealth assistance received in the half-year in relation to eligible innovation.

Note *Eligible innovation* has the meaning given by section 1.12.

- (2) For section 7.1, the amount of other Commonwealth assistance received by an STP participant in relation to eligible investment in plant and equipment is worked out using the formula:

$$E \times 25\%$$

where:

E is the total amount of the other Commonwealth assistance received in the half-year in relation to eligible investment in plant and equipment.

Note *Eligible investment* has the meaning given by section 1.9.

- (3) For section 7.1, the amount of other Commonwealth assistance received by an STP participant in relation to eligible production for the STP participant is worked out using the formula:

$$G \times 2.5\%$$

where:

G is the total amount of the other Commonwealth assistance received in the half-year in relation to eligible production for an STP participant.

Note *Eligible production for an STP participant* has the meaning given by section 1.16.

Part 8 Miscellaneous

8.1 Particulars to be included in business plan etc.

- (1) For section 2.7, an STP participant must set out in the participant's business plan and any update of the business plan, information detailing relevant issues against the reporting criteria set out in Schedule 1.

- (2) Information referred to in subsection (1) may be included in the Department's annual report of progress towards achieving economic sustainability of the Australian steel manufacturing industry, which is to include:

- (a) details of the total amounts of STP payments paid to STP participants for relevant periods; and
- (b) information about the progress of the Australian steel manufacturing industry towards improved environmental outcomes and workforce skills development during the immediately preceding financial year.

8.2 Approved forms

The Secretary may approve a form, including an electronic form, by instrument in writing.

8.3 Ongoing obligation to maintain records

A person who was an STP participant must continue to maintain the business plan documents mentioned in paragraph 2.7 (2) (b) and the half-yearly return documents mentioned in section 2.17, in accordance with the requirements of those provisions.

8.4 Publication of information relating to STP participants

- (1) The Minister may publish the following information about an STP participant or a person who was an STP participant:
- (a) that the person is or was an STP participant and the period of the person's participation in the plan;
 - (b) the amount of assistance paid to the person in an STP year.

Schedule 1 Reporting criteria: meeting object in section 3 of the Act

(section 8.1)

Reporting criteria for meeting the requirements of section 8.1

CRITERIA FOR PROVIDING ANNUAL CLEAN TECHNOLOGY REPORT

An STP participant must report the extent to which the participant has taken measures, or plans to take measures, to reduce its emissions and improve the environment, as demonstrated by, but not limited to:

- A reduction in the environmental impact of the STP participant's manufacturing process, for example:
 - switching to more sustainable energy sources for the manufacturing process, or
 - achieving or planning energy efficiency savings for the manufacturing process, or
 - recycling measures for waste products, or
 - upgrades for plant and equipment that improve environmental performance, or
 - use of sustainable materials, or
 - innovation activities that are directed to achieving, or are likely to achieve, improvements in the environmental performance of products or manufacturing processes.
 - Participation in governmental (including Federal, State and Territory) environmental programs such as:
 - the Clean Technology Innovation Program, and
 - the Energy Efficiency Opportunities program.
 - Workforce skills development to reduce the impact of the business on the environment, for example:
 - participation in government or commercial training programs designed to help businesses more effectively identify and implement environmental improvements in their business, or
 - other activities that improve the environmental skills of the workforce.
 - Other activities resulting in improved environmental outcomes and reductions in the STP participant's carbon pricing liability.
 - The extent of progress made against these indicators since the previous report.
- An STP participant may report against as many of the items above as are relevant, but must report against at least one of the above items.

CRITERIA FOR PROVIDING A WORKFORCE SKILLS AND DEVELOPMENT REPORT

An STP participant must report the extent to which the participant is promoting the development of its workforce's skills, as demonstrated by, but not limited to:

- The number of people within the workforce with applicable post-school qualifications, for example:
 - Australian Qualification Framework (AQF) Certificate I and II,
 - AQF Certificate III and IV,
 - trade qualifications,
 - Advanced Diploma and Diploma,
 - Bachelor's Degree,
 - Postgraduate and Graduate Diplomas,
 - the number of apprentices in the workforce,
 - the number of apprentices within the workforce successfully completing their apprenticeships,
 - participation in government (including Federal, State and Territory) or commercial training programs designed to help businesses more effectively train their workforce, including:
 - registered training providers providing flexible on-the-job recognised training,
 - improved productivity in the workplace,
 - the development and implementation of workforce skills and development plans,
 - other activities resulting in the development of the workforce,
 - the extent of progress made against the above-mentioned indicators since the previous Workforce Skills and Development Report.
- An STP participant may report against as many of the items above as are relevant, but must report against at least 5 of the above items.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.

EXPLANATORY STATEMENT

STEEL TRANSFORMATION PLAN 2012

The *Steel Transformation Plan 2012* (the plan) is made under the authority of the *Steel Transformation Plan Act 2011* (the Act). The Act established the legislative framework for the Steel Transformation Plan (STP) with the administrative detail set out in this legislative instrument.

The STP is a \$300 million entitlement program, operating over six payment years from 2011-12, that aims to encourage investment, innovation and competitiveness in the Australian steel manufacturing industry in order to assist the industry to transform into an efficient and economically sustainable industry in a low carbon economy.

The STP is a self assessment entitlement scheme that provides cash payments to registered participants for undertaking strategic investment, innovation and the production of steel products in Australia.

Section 9 of the Act provides that the Minister must, by legislative instrument, make the plan providing for the payment of amounts to eligible corporations that are registered under the plan. Section 9 prescribes that the plan is to be a self assessment plan.

Section 10 of the Act lists the matters that may be included in the plan.

The plan is divided into the following parts:

Part 1 contains preliminary matters including what constitutes sale of goods, the meaning of production and what constitutes eligible investment, eligible innovation and eligible production.

Part 2 sets out the conditions for registration under the plan.

Part 3 sets out the process for working out the half-yearly assistance to which a registered eligible corporation is entitled.

Part 4 describes the process for each STP participant to making a half-yearly return to be entitled to assistance under the plan. Part 4 also contains the maximum amount of capped assistance available to STP participants and the limits on payments of amounts to individual participants.

Part 5 ensures that any overpayments made to STP participants can be recovered. It also provides that interest may be charged on overpaid amounts.

Part 6 provides for internal and administrative review of certain decisions.

Part 7 sets out the treatment of other Commonwealth assistance for the purpose of calculating eligible investment, eligible innovation and eligible production for STP participants.

Part 8 contains miscellaneous provisions including particulars to be included in the business plan and ongoing record keeping obligations.

Schedule 1 sets out the required information and reporting criteria to be included in the business plan.

The plan is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The plan will commence on 1 May 2012

Consultation

The plan has been developed with consultation between the Government and the key industry stakeholders.

The plan was developed in close consultation with:

- Commonwealth Government agencies including the:
 - Department of Climate Change and Energy Efficiency; and
 - Attorney General's Department;
- the Australian Workers Union (AWU);
- BlueScope Steel Limited; and
- OneSteel Limited

Financial Impact Statement

The total administered expenses for the Steel Transformation Plan established by the *Steel Transformation Plan Act 2011* is \$300 million over the period 2011-2012 to 2016-2017.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Steel Transformation Plan 2012

This Bill/Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Legislative Instrument

The *Steel Transformation Plan 2012* is made under the authority of the *Steel Transformation Plan Act 2011* (the Act). The Act established the legislative framework for the *Steel Transformation Plan* (STP) with the administrative detail set out in this Legislative Instrument.

The STP is a \$300 million entitlement program, operating over six payment years from 2011-12, that aims to encourage investment, innovation and competitiveness in the Australian steel manufacturing industry in order to assist the industry to transform into an efficient and economically sustainable industry in a low carbon economy.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Details of the Steel Transformation Plan 2012

This Explanatory Statement uses the following abbreviations:

- 'STP' means the Steel Transformation Plan
- 'Act' means the *Steel Transformation Plan Act 2011*
- 'The plan' means the *Steel Transformation Plan 2012*
- 'STP participant' means an eligible corporation that is registered under the plan.

Part 1 Preliminary

Division 1.1: Introduction

1.1 Name of instrument

The title of the instrument is the *Steel Transformation Plan 2012*.

1.2 Commencement

The plan commences on 1 May 2012.

1.3 Object of plan

The plan establishes the STP as per section 3 of the Act.

1.4 Overview of plan

This section describes the main elements of the STP. The plan sets out an entitlement scheme for eligible corporations that are part of the Australian steel manufacturing industry. STP participants that engage in eligible innovation, eligible investment and eligible production are entitled to cash payments of assistance.

The Overview states that any entitlements under the plan must be reduced by the amount of competitiveness assistance advances provided to that STP participant.

The Overview also states that the plan would set out the payments of assistance and how payments are to be calculated, the recovery of overpayments, administrative review of decisions, document retention obligations and requirements for publication of information.

1.5 Definitions

This section describes the meaning of specific terms used within the plan.

1.6 Meaning of *production*

This section defines production generally, and the production in Australia of crude carbon steel, using a method defined under section 4 of the Act, and marketable steel products.

The purpose of this definition is to set out the minimum requirements for an activity to be recognised as production under the plan.

Division 1.2: Sale of goods, eligible investment, eligible innovation, and eligible production

Subdivision 1.2.1: Sale of goods

1.7 When sale of goods is taken to occur

This section defines circumstances where a sale of goods is taken to have occurred for the purposes of determining the annual level of sales of each participant in order to apply the sales-based cap.

The sales-based cap limits annual STP assistance to a maximum of five per cent of the STP participant's previous year's sales. The sales-based cap is set out in section 4.8 of the plan.

1.8 When sale of goods is taken not to occur

This section defines circumstances where a sale of goods is taken not to have occurred. This includes if the goods are lent from one person to another and the lender retains title, or if a corresponding credit for the goods is issued after the transaction.

Subdivision 1.2.2: Eligible investment

1.9 Eligible investment

This section sets out the kinds of investment that an STP participant may claim as eligible investment under the plan. Eligible investment includes investment in new, or upgrades to, existing plant and equipment, buildings or structures for the purposes of production of crude carbon steel or marketable steel products.

1.10 Maximum claimable value for eligible investment

This section sets out the method for calculating the maximum amount an STP participant can claim (maximum claimable value) for eligible investment. The maximum claimable value depends on the circumstances in which the investment was made (ie by purchase, lease, or building or making the investment)

1.11 Working out investment amounts

This section sets out the method for working out the investment amounts for an STP participant in a half-year. The method is calculated using the calculation determined under section 1.10 minus any other forms of Commonwealth assistance calculated under section 7.3.

Subdivision 1.2.3: Eligible innovation

1.12 Eligible innovation

This section sets out the kinds of activities that may be claimed by an STP participant as eligible innovation under the plan. This includes activities directly related to research and development that is undertaken for the purpose of acquiring new knowledge or creating improved materials, products, production or processes.

1.13 Maximum claimable value for eligible innovation

This section sets out the method for calculating the maximum amount an STP participant can claim (maximum claimable value) for eligible innovation. The maximum claimable value depends on the circumstances in which the innovation activities were undertaken (ie carried out under contract or through purchase of equipment or materials for the purpose of innovative activities).

1.14 Working out eligible innovation amounts

This section sets out the method for working out the eligible innovation amounts for an STP participant in a half-year. The method is calculated using the calculation determined under section 1.14 minus any other forms of Commonwealth assistance calculated under section 7.3.

1.15 Meaning of *labour costs* and *costs of training and development*

This section sets out the method for determining labour costs and costs of training and development in respect of any employee carrying out eligible innovation activities. This method is used to calculate the maximum claimable value for eligible innovation.

Subdivision 1.2.4: Eligible production

1.16 Eligible production for STP participants

This section provides that an STP participant may claim the production of crude carbon steel and marketable steel materials as defined by section 1.6.

1.17 Maximum claimable value for eligible production

This section sets out the method for calculating the maximum amount an STP participant can claim (maximum claimable value) for eligible production. Net inventory change is determined as the closing stock value, less the opening stock value, calculated in accordance with the Australian Accounting Standards.

1.18 Working out production amounts for STP participants

This section requires the Secretary to work out the production amounts for an STP participant in a particular half-year in accordance with the method. Production amounts are in respect of eligible production as defined by section 1.6.

Division 1.3: Determining eligible investments, eligible innovations and value of arm's length transactions

Subdivision 1.3.1: Recognising eligible investment and eligible innovation

1.19 When investment or eligible innovation is taken to have occurred

This section sets out a clear time when eligible investment and eligible innovation is taken to have occurred.

Subsections 1.19(1) and (2) set out the time when investment in plant and equipment is taken to have occurred depending on the circumstances in which the plant and equipment was acquired (ie under a finance lease or hire purchase, or by building or making the plant and equipment).

Subsection 1.19(3) sets out the time when expenditure for eligible innovation is taken to have occurred depending on the circumstances in which the eligible innovation was undertaken.

Only investment or innovation that meets the requirements of this provision can be claimed as eligible investment or eligible innovation in a half-yearly return.

Subdivision 1.3.2: Arm's length transactions

1.20 Production value, sales value of eligible investment or eligible innovation determined as if transaction at arm's length

Subsection 1.20(1) provides that the production and sales values used by a person for claiming eligibility or assistance are determined on the basis that the parties are at arm's length, that is, the parties are not related entities. This ensures that production and sales values are not artificially distorted through transaction between related companies.

Subsection 1.20(2) mirrors subsection 1.20(1) however relates to eligible investment and eligible innovation.

1.21 Determining the circumstances when parties treated as not being at arm's length

This section requires the Secretary to decide that parties are not at arm's length when they are related or associated entities. Parties are not at arm's length if they are a group, if one party controls the other (within the meaning of the *Corporations Act 2001*), or if the parties are involved in a cartel (within the meaning of the *Competition and Consumer Act 2010*).

1.22 Production value or sales value: parties treated as not being at arm's length

This section sets out the process for determining the production value or sales value if the parties had been at arm's length. This process includes considering whether to accept or reject the value of production or sales provided by an STP participant.

1.23 Value of eligible innovation: parties treated as not being at arm's length

This section sets out the process for determining the value of eligible innovation if the parties had been at arm's length. This process includes considering whether to accept or reject the value of eligible innovation provided by an STP participant.

1.24 Value of investment: parties treated as not being at arm's length

This section sets out the process for determining the value of eligible investment if the parties had been at arm's length. This process includes considering whether to accept or reject the value of eligible investment provided by an STP participant.

1.25 Methods for determining value of transactions: parties treated as not being at arm's length

This section sets out the method for determining the value of transactions when the parties are deemed not to be at arm's length. This method involved comparing the value of the transactions to a similar transaction between parties that are not related.

Part 2 Registration under plan

Division 2.1: Rules about registration

2.1 Number of registrations available under plan

This section clarifies that an eligible corporation, whether as a single entity or part of a group of related bodies corporate, may only hold one registration under the plan at a time.

2.2 Registration under plan must further object of Act

This section provides that the Secretary must not register an applicant under the plan unless the Secretary is satisfied that the applicant would further the object of the Act.

Division 2.2: Applications for registration

2.3 Application for registration

This section sets out that an eligible corporation as defined under section 4 of the Act may apply for registration under the plan.

Division 2.3: Participation in plan by groups of companies

2.4 Group of companies may apply for registration as single entity

Subsection 2.4(1) provides that if a group, or member of a group of related bodies corporate, intends to operate as an STP participant, the group must apply to the Secretary to seek registration as if the group were a single entity. The application must be in the manner prescribed in subsection 2.4(3).

Subsection 2.4(2) provides that if one of a group of related bodies accepted a competitiveness assistance advance, that group is to be regarded as operating as an STP participant.

Subsection 2.4(4) provides that a reference to an STP participant, where the STP participant is a group, is a reference to the group's subsidiaries at that particular time, and if one of the entities in the group ceases to be part of that group than that entity ceases to be taken as an STP participant.

2.5 Dealing with application by group of related bodies corporate

Subsection 2.5(1) provides that the Secretary may consider an application for permission to register as a group at the same time as the Secretary considers other aspects of the application for registration. The Secretary will consider the application within 60 days, unless more information is required.

Subsection 2.5(2) sets the circumstances when the Secretary must grant permission for a group of related bodies to apply for registration. However, if the Secretary is not satisfied with any of the matters listed in subsection 2.5(2), the Secretary must refuse the application, subsection 2.5(3).

Subsection 2.5(4) provides that a decision to grant permission must specify any conditions to which the application is subject.

Subsection 2.5(5) clarifies when a decision to grant permission takes effect.

2.6 Legal status of a group permitted to make application for registration

This section allows a group that is granted permission to apply for registration, to be treated as a single entity for the purposes of eligibility, review of decisions, and rights and liabilities under the plan. This section also sets out the test for whether a group is a fit and proper person for the purposes of registration and deregistration.

Division 2.4: Formal requirements for, and consideration of, applications for registration

2.7 Content of application for registration

Subsection 2.7(1) sets out the requirements for an application for registration.

Subsection 2.7(2) requires applicants to include in their application information on their capability to comply with the document retention obligations under section 2.17 and lists the matters that must be included in an applicant's business plan.

Subsection 2.7(3) requires that applicants must provide a business plan by 30 September of the STP year in which registration is sought.

The information contained in the business plan should commence from the start of the STP year for which registration is sought.

2.8 Lodgement of applications

This section sets out the manner for lodgement of applications for registration.

2.9 When to apply

This section requires a person to apply for registration before 1 July of the STP year (as set out in section 1.6) for which registration is sought. Applications for registrations for a particular STP year will not be accepted after 1 July for that particular STP year.

2.10 Consideration of registration applications

Subsection 2.10(1) requires the Secretary to examine each application for registration, and determine whether to grant the application, within the consideration period.

If satisfied that the applicant meets the requirements of subsection 2.10(2), the Secretary must register the applicant. However, if the Secretary is not satisfied by the matters detailed in subsection 2.10(2), the Secretary must refuse the application (subsection 2.10(3)).

Subsection 2.10(4) sets the consideration period for application for registration is 60 days from the day of lodgement of the application, unless further substantiating information is required.

2.11 Fit and proper person

This section lists the matters that the Secretary must consider when deciding whether a person is a fit and proper person for the purposes of registration and deregistration. The Secretary must consider matters including whether an applicant has been convicted of a serious offence, is under administration (within the meaning of the *Corporations Act 2001*), or is being wound up.

2.12 Secretary may seek further information

Subsection 2.12(1) allows the Secretary to request further information within a specified period for the purposes of deciding whether to grant registration to the applicant.

Subsection 2.12(2) provides that the applicant is taken to have withdrawn the application if the further information requested is not provided, or if no reasonable explanation is given as to why the information cannot be provided, within the specified period.

2.13 Period of effect of registration

This section provides that if registration is granted it will take effect from 1 July of the STP year for which the application was made for the duration of the plan unless the STP participant is deregistered.

2.14 Registration does not confer entitlement

This section makes it clear that registering for the plan does not in itself confer an entitlement to assistance. This is because an entitlement will only arise when an STP participant meets all the conditions of the plan, including undertaking eligible investment and production and making half-yearly returns in the required form.

Division 2.5: Conditions of registration

2.15 General compliance

This section provides that registration is conditional upon an STP participant complying with the required of the Act and the plan.

2.16 Condition of eligible corporation registration

This section provides that a condition of registration for an eligible corporation under the plan is to meet the requirements outlined by the definition of *eligible corporation* set out under section 4 of the Act.

2.17 Document retention obligations

This section requires STP participants to maintain documents that substantiate information provided in each of their half-yearly returns. This evidence is required for post-payment compliance and auditing.

2.18 Update of business plan

Subsection 2.18(1) requires STP participants to provide annual updates to the business plans provided in the initial application for registration. This is required for all participants under the plan.

The update must include the detail set out in subsection 2.18(2) and be in accordance with the approved form.

Subsection 2.18(3) sets out the timing for when the updates are to be provided and subsection 2.18(4) prescribes the period each update must cover.

Division 2.6: Deregistration

2.19 Deregistration

This section lists the circumstances in which the Secretary must or may deregister and STP participant. For example, an STP participant must be deregistered if they are deemed not to be a fit and proper person or if the STP participant asks to be deregistered.

Part 3 Working out half-yearly assistance for an eligible corporation

3.1 Secretary to work out assistance for STP participants

This section requires the Secretary to work out the assistance for STP participants in accordance with the steps set out in section 3.2.

3.2 Working out assistance for STP participant for half-year

Subsections (1) and (2) prescribes the steps to be followed when calculating the half-yearly assistance for particular half-years for STP participants. The subsection makes it clear that the steps for calculating the half-yearly assistance vary depending on the particular half in an STP year.

Subsection (4) sets out, in step form, the full process for calculating the half-yearly assistance for a half-year, which takes into account the sales-based cap, the annual capped assistance for the STP year, any debt owed to the Commonwealth under the plan and any competitiveness assistance advance paid prior to the commencement of the plan.

Part 4 Payments under plan

Division 4.1: Making of half-yearly returns

4.1 STP participants to make half-yearly returns

This section requires participants to submit a return, in the manner prescribed, 60 days after the end of each half of an STP year.

4.2 Making half-yearly return does not confer entitlement

This section makes it clear that making a half-yearly return does not, by itself, confer an entitlement on an STP participant.

4.3 Contents of STP participant's return

This section lists what information an STP participant must include in each half-yearly return. This includes particulars of eligible production, eligible investment, eligible innovation, sales values and other Commonwealth assistance received.

4.4 Rules concerning returns

Subsection 4.4(1) provides that where an STP participant fails to cover any particular production, investment, innovation or sales value in a half-yearly return (other than a return for the final half of an STP year), the production, investment, innovation or sales value may be covered in the remaining half of the same STP year.

Subsection 4.4(2) provides that for calculation purposes, any production, investment, innovation or sales value covered in a later return is taken to have occurred in the half-year it was reported and not in the half-year achieved or undertaken.

Subsection 4.4(3) provides that if an STP participant fails to cover particular production, investment, innovation or sales value in the manner allowed in subsection 4.4(1), that production, investment, innovation or sales value will be treated as if it had never occurred.

Subsection 4.4(4) provides that where an STP participant fails to cover any particular production, investment, innovation or sales value in its return for the final half of an STP year, the production, investment, innovation or sales value will be treated as if it had never occurred.

4.5 Further information about half-yearly return

This section allows the Secretary to request an STP participant to provide further information in relation to a half-yearly return. The Secretary is not required to assess the return until the participant provides the additional information.

Division 4.2: Caps on plan and STP participants

4.6 Capped assistance for STP years

This section sets the maximum amount of capped assistance for eligible production, eligible investment and eligible innovation in an STP year.

4.7 Annual assistance divided between eligible corporations

Subsection 4.7(1) allows for any unpaid assistance from a previous STP year for an STP participant to be added to the amount available to the STP participant in an STP year, determined under subsection 4.7(2).

Subsection 4.7(2) provides that the amount of funding available to an STP participant in an STP year is to reflect the amount that participant received under the competitiveness assistance advance as a percentage of the total amount of the available assistance advance. Therefore this subsection divides the assistance between the eligible corporations under the plan in the ratio of 61:39.

Subsection 4.7(3) provides that a competitiveness assistance advance must be acquired in full before an STP participant receives any further payments.

4.8 Sales-based cap for payment of assistance

This section requires that assistance paid to an STP participant must not exceed five per cent of the annual sales values of an STP participant's goods for the previous year.

Division 4.3: Making of payments of assistance

4.9 Half-yearly payments

Subsection 4.9(1) provides that an STP participant is entitled to a half-yearly payment if it satisfies the requirement of this section. This includes undertaking eligible investment or eligible innovation or eligible production, submitting a half-yearly return within the specified timeframe, and complying with the ongoing conditions of registration in Division 2.5.

Subsection 4.9(2) provides that half-yearly assistance will be worked out in accordance with Part 3.

Subsection 4.9(3) requires payments to be made to STP participants before the end of the following half-year.

Subsection 4.9(4) stipulates that payments made in the second half-year must be paid by 31 December of the following year.

Subsection 4.9(5) requires the Secretary to give the participant written notice with reasons if the participant is not entitled to assistance.

4.10 Inalienability of payments

Subsection 4.10(1) restricts payment of assistance to STP participants.

Subsection 4.10(2) and (3) ensures that assistance provided is inalienable except with the written approval of the Secretary.

4.11 Condition of payment of assistance

Subsection 4.11(1) provides that payments to participants are conditional upon all or part of the payment being offset or recovered by the Commonwealth.

Subsection 4.11(2) provides that the Secretary may refuse to make a payment if an STP participant has failed, or is likely to fail to comply with the conditions of registration.

Division 4.4: Entitlement to assistance

4.12 Persons not entitled to certain assistance

This section sets out the circumstances in which a person who has or had been paid assistance under the plan is not entitled to the assistance

Part 5 Recovery of overpayments

5.1 Plan debt

This section provides that all or part of a half-yearly payment that exceeds the amount an STP participant is entitled to, is recoverable by the Commonwealth. Any such amount is a plan debt.

5.2 Recovery by offsetting

This section allows plan debt to be offset from one or more half-yearly payments.

5.3 Secretary to issue notice

Subsection 5.3(1) requires the Secretary to give notice in writing of a plan debt to an STP participant. The notice must include the amount of the plan debt, the interest payable, and that the plan debt must be paid within 30 days upon receipt of the notice or offset from future half-yearly payments.

Subsection 5.3(2) sets out when the plan debt may be offset if an STP participant does not comply with a notice or does not apply for review of the decision.

5.4 Interest payable on plan debt

Subsection 5.4(1) requires the Secretary to charge interest on plan debts. Interest is charged on plan debts to deter STP participants from over-claiming assistance.

Subsection 5.4(2) sets out the rate of interest payable depending on when a plan debt and interest is repaid. If a plan debt is paid within 30 days of an STP participant receiving a notice of the debt or is offset from future half-yearly entitlements, then interest is calculated at the 90 day bank bill rate less 10 basis points.

Subsection 5.4(3) sets out that if a plan debt is not paid within 30 days or offset, or recovery by offset has been refused, interest is calculated at 20 per cent per annum plus the 90 day bank bill rate less 10 basis points.

Subsection 5.4(5) lists circumstances when the Secretary must not charge interest including if charging interest would cause financial hardship or if there was an error made by the Department.

Subsection 5.4(6) provides that interest is recoverable by the Commonwealth as a debt due to the Commonwealth.

Subsection 5.4(7) prevents interest being offset from future half-yearly payments.

5.5 Extension of time for payment of plan debt

Subsection 5.5(1) allows the Secretary to extend the time for payment of a plan debt.

The process for an STP participant to seek an extension of time for the payment of a plan debt is set out in subsection 5.5(2).

Part 6 Administrative review of decisions

6.1 Request for reconsideration of decision by Secretary

This section requires the Secretary to give reasons when making certain decisions under the plan. The notice must include a statement that if the person was dissatisfied with the decision, the person may request a reconsideration of the decision and if dissatisfied with this decision, may apply to the Administrative Appeals Tribunal (AAT) for a review of the decision. An STP participant must apply for a reconsideration of the decision within 30 days of receiving the decision (or a further period at the Secretary's discretion).

6.2 Reconsideration by Secretary

This section requires the Secretary to reconsider the decision on receiving a request from a person under section 6.1. The Secretary may confirm, vary or revoke the decision. If the Secretary does not take this decision within 30 days of receiving the request, the Secretary would have been taken to have confirmed the decision.

If the Secretary confirms, revokes or varies the decision within 30 days, a notice setting out the reasons for these actions must be provided to the person. In addition, the notice must include a statement that if the person is dissatisfied with the decision, they may apply to the AAT for a review of the decision. An ATS participant must apply to the AAT for a review of the decision within 28 days of receiving the decision or confirmation of the decision.

6.3 Review of decisions affecting payment of assistance

This section sets out the decisions under the plan that may be reviewed by the Administrative Appeals Tribunal (AAT). These decisions include decisions on whether the parties are at arm's length, a decision to refuse payment of assistance or that an STP participant is liable to pay an amount of a plan debt.

6.4 Limitations on implementation of court decisions concerning payment of assistance

This section limits the implementation of court decisions in respect of the decision listed in section 6.3. These limitations ensure the annual sales-based cap for an STP participant is not exceeded as a result of giving effect to court decision.

6.5 Limitations on implementation of AAT decisions concerning payment of assistance

This section limits the implementation of AAT decisions in respect of the decision listed in section 6.3. These limitations ensure the annual sales-based cap for an STP participant is not exceeded as a result of giving effect to an AAT decision.

6.6 Review of other decisions

This section lists other decisions made by the Secretary which may be reviewed by the AAT. These include decisions that: registration does not further the purpose of the Act; a refusal to grant permission for a group of companies to seek registration; a decision to refuse registration; a decision that a person or group is not a fit and proper person; a decision to deregister an STP participant; a decision to refuse recovery of plan debt by offsetting; a decision that charging interest would not cause financial hardship; or a decision not to extend the time for payment of a plan debt.

Part 7 Other Commonwealth assistance

7.1 Meaning of other Commonwealth assistance

This section provides that an STP participant has received other Commonwealth assistance if it has received financial assistance, other than under the plan, for activities undertaken in relation to eligible production, eligible investment or eligible innovation.

7.2 Other Commonwealth assistance that is not financial assistance

This section lists the forms of assistance that are not considered other Commonwealth assistance for the purposes of the plan.

7.3 Working out the amount of other Commonwealth assistance

This section sets out the formulae for working out the amount of other Commonwealth assistance received by an STP participant in relation to eligible invest, eligible innovation and eligible production.

Part 8 Miscellaneous

8.1 Particulars to be included in business plan etc

This section requires STP participants to provide information in their annual business plan updates relevant to the criteria listed in Schedule 1. Information provided by STP participants will be used to inform the Department's annual report, outlining the progress of the industry toward achieving economic sustainability in a way that achieves environmental outcomes and promotes the development of workforce skills (as required by section 3 of the Act).

8.2 Approved forms

This section allows the Secretary to approve a form by instrument in writing.

8.3 Ongoing obligation to maintain records

This section requires persons who were STP participants to maintain records in relation to the business plan documents and half-yearly returns under the plan in accordance with section 2.17.

8.4 Publication of information relating to STP participants

This section allows the Minister to publish information about the identity of an STP participant, and the amount of assistance under the plan they received.

Schedule 1 Reporting criteria: meeting object in section 3 of the Act

Schedule 1 sets out the reporting criteria to be followed when an STP participant provides its report on the progress taken to reduce emissions and improve the environment and promoting the development of its workforce's skills along with its updated business plan.



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ASX Media Release

Release Time: 8:30am
 Date: 21 February 2011

BLUESCOPE - TRADING CONDITIONS REMAIN TOUGH

BlueScope Steel today reported a \$55 million net loss after tax (NLAT) for the first half FY2011 (compared to a NLAT of \$28 million in the previous corresponding period). In accordance with accounting standards, the reported NLAT includes a \$77 million write-down of goodwill in the BlueScope Distribution business and a \$68 million write-back to the Coated China asset base.

The write-down of the goodwill in the BlueScope Distribution business was due to a revised medium term outlook for that business that is influenced by the current reduced market demand and increased import competition which is driving margins lower. The write-back to the Coated China asset base was due to the material growth in its financial performance and positive outlook.

The underlying NLAT for the half was \$47 million (NLAT of \$53 million in 1H FY2010). This includes net realisable value (NRV) provisions of \$42 million, mainly for finished product inventory on hand at 31 December 2010.

Speaking at the half-year results briefing in Sydney, BlueScope Steel's Managing Director and CEO, Mr Paul O'Malley, said "the result is 'in line' with the Company's guidance at the Annual General Meeting and reflective of the developed world steel industry performing near the bottom of its cycle.

"The result was largely driven by three external factors:

1. Stronger A\$ vs US\$, negatively impacting export margins, Australian commoditised product volumes and margins, and translation of offshore earnings
2. Reduced spreads, ie higher raw material costs more than offsetting slight improvements in steel prices
3. Lower demand in the Australian market

"The Board declared a 2 cent per share interim dividend (fully franked), noting there will be no Dividend Reinvestment Share Plan attaching to this dividend.

"At the reporting segment level:

- Coated & Industrial Products Australia (C&IPA) – \$97m underlying earnings loss before interest and tax (EBIT loss) in the first half of FY2011 (vs \$80m EBIT loss in 1H FY2010), largely driven by the abovementioned three external factors. Australian sales volumes were lower due to softer demand, particularly in the Manufacturing and Pipe and Tube markets.
- Australia Distribution and Solutions – \$15m underlying EBIT loss in the first half of FY2011 (vs \$3m underlying EBIT in 1H FY2010) due to increased competition from imports driving lower margins.
- New Zealand Steel – \$49m underlying EBIT in the first half of FY2011 (vs \$21m underlying EBIT in 1H FY2010). A good start to the year with a solid contribution from the minerals businesses, stronger margins and improved fixed cost recoveries.
- Asia – \$46m underlying EBIT in the first half of FY2011 (vs \$50m underlying EBIT in 1H FY2010). Continued strong performance largely driven by the increased sales volumes in China (up 40% on 1H FY2010), partly offset by unfavourable exchange rate movements and increased competition in Thailand impacting margins.
- Hot Rolled Products North America – \$8m underlying EBIT in the first half of FY2011 (vs \$14m underlying EBIT in 1H FY2010). A modest start to the year due to low steel prices and higher input costs.



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ASX Release

Release Time: IMMEDIATE
Date: 11 August 2011

MARKET UPDATE

On 12 May 2011, BlueScope advised the market that the second half reported earnings for the financial year ending 30 June 2011 were expected to result in a small reported Net Loss After Tax (excluding any Net Realisable Value adjustments). The business overall has performed in line with this guidance.

As part of finalising its accounts for the financial year ended 30 June 2011, the Company is reviewing the carrying value of its assets. Given ongoing macroeconomic challenges of a high \$A, high raw material costs and low prices, it is expected that total write downs in the order of \$900 million in the asset carrying values of the Coated & Industrial Products Australia and the BlueScope Distribution businesses will be included in the annual results. Directors are undertaking further analysis of a number of the assumptions underlying the write downs. Ideally, the Company would defer advice to the market until it had finalised the carrying values. However, Directors have decided to inform the market, given a material impairment is likely. These impairments are accommodated within the Company's financial covenants with its lenders.

In its ASX Release on 11 July 2011, the Managing Director and CEO noted that the Company is fully engaged in how best to address these macroeconomic challenges. The Board is reviewing options to align BlueScope's domestic steelmaking production capacity to Australian domestic market demand. No decisions have been made. The benefit to the Company's financial performance of successfully aligning domestic steelmaking production capacity to Australian domestic market demand would be expected to be material.

BlueScope's financial results for the year ended 30 June 2011 will be announced on 22 August.

For further information about BlueScope Steel Limited: www.bluescopesteel.com

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ASX Media Release

Release Time: 2:00pm
Date: 17 November 2011

BLUESCOPE AGM UPDATE

At its Annual General Meeting in Sydney today BlueScope Steel declared its major restructure to exit the Australian steel export business was almost complete and the Company reconfirmed its guidance for 1HFY2012.

BlueScope Chairman, Mr Graham Kraehe AO, advised shareholders the Australian business restructure had been "essential to significantly reduce the losses from the export steel business and lay the foundation for future earnings growth."

Mr Kraehe said the key components of BlueScope's growth strategies are to: optimise service to the Australian market from a one blast furnace operation; build on the Company's outstanding presence in Asian markets; and globalise its pre-engineered building business.

The Company confirmed guidance for the first half:

- a significant reported Net Loss After Tax including restructuring costs (excluding year end NRVs and/or impairments)
- a small underlying Net Loss After Tax (excluding restructure costs, year end NRVs and/or impairments).

Australian Restructure

BlueScope Managing Director and CEO, Mr Paul O'Malley, said the closure of the No. 6 Blast Furnace and No.4 Coke Ovens Battery at Port Kembla steelworks, and the Hot Strip Mill at Western Port took place in the first two weeks of October.

"Our Australian workforce has been reduced by approximately 1,000 employees as a result of this restructure, 800 at Port Kembla and around 200 at Western Port, along with 400 contractors.

"This technically complex decommissioning work was conducted safely and successfully and reflects the quality, professionalism and cooperation of our workforce, contractors and suppliers.

"Over 90 per cent of the redundancies were achieved through voluntary arrangements. More than 80 companies, with thousands of positions vacant, are contacting our people through our job centres.

"I am pleased to report that the costs of restructuring, which we indicated would be between \$400 million and \$500 million are still expected to be within that range, with the costs mainly incurred in the first half. Negotiations on raw material contracts and other supply contracts are well advanced.

"Our full year target for working capital release remains on track. However, given we want to achieve the best possible prices for our products, we have intentionally slowed down the release due to low demand in the domestic market and low international steel prices. The working capital will mainly be released over the next quarter.

"I confirm that the working capital release will largely fund the cost of the restructure and we expect to achieve the fixed cost reduction targets that we set for the restructure," said Mr O'Malley.

Update on Trading Conditions

"Capacity utilisation internationally remains below 80%, a sign that steel-making margins will be low, and as a result, in recent months major steel companies have followed BlueScope's lead and either shut or mothballed blast furnaces, particularly across Europe," said Mr O'Malley.

Global Building and Construction

"We are a global leader in steel construction solutions and pre-engineered buildings (PEBs). There is rising demand for more efficient design, faster construction solutions and improved energy efficiency. BlueScope has a key advantage here. We are investing in our PEB capability globally as a future growth opportunity for our business.



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ASX Media Release

Release time: Immediate
Date: 20 August 2012

DEBT REDUCTION TARGETS EXCEEDED, AUSTRALIAN BUSINESS RESTRUCTURE COMPLETED GLOBALLY WELL POSITIONED FOR GROWTH

BlueScope today reported a \$1,044 million net loss after tax (NLAT) for FY2012. This compares with a \$1,054 million reported NLAT in FY2011.

The reported NLAT includes an impairment charge of \$315 million, as foreshadowed last week.

Underlying NLAT¹ for FY2012 was \$238 million. This compares to an underlying NLAT of \$127 million in FY2011.

Net debt was reduced to \$384 million or approximately \$580 million, adjusting for favourable timing of year end cashflows.

The Board has decided there will be no final ordinary dividend.

BlueScope's Managing Director and CEO, Mr Paul O'Malley said "FY2012 was a transforming year, we delivered what we promised. Net debt is lower than forecast. Our Australian businesses are expected to be EBITDA positive in FY2013, and globally we are now well positioned for growth.

"BlueScope is now structured into four main businesses: BlueScope Building Products; BlueScope Global Building Solutions; BlueScope Australia and New Zealand and in the US, North Star BlueScope Steel.

"Our Building Products business, across ASEAN and the US, will be incorporated in the new US\$1.36 billion NS BlueScope Coated Products joint venture with Nippon Steel Corporation. It will provide a stronger platform to capture growth in new market segments. The net proceeds of approximately US\$540 million from Nippon Steel's 50% investment will afford BlueScope further financial flexibility and balance sheet strength to grow businesses that deliver strong returns.

"Our Global Building Solutions business is well placed to capture opportunities in the world's largest and fastest growing non-residential construction markets with the potential to double current revenue of \$1.45 billion within three years.

"BlueScope in Australia is delivering its turnaround. New Zealand Steel continues to be profitable and its iron sands export capability is on track to double within two years.

"In the US, our North Star BlueScope Steel business will concentrate on continuing its good operational performance and accelerating specific growth opportunities," said Mr O'Malley.

BLUESCOPE'S OUTLOOK

"For the 1H FY2013, we expect a continued improvement in financial performance with an underlying net after tax loss (before period-end net realisable value adjustments) approaching breakeven (subject to spread, FX and market conditions).

"In FY2013, total capital expenditure for the group is expected to be approximately \$300 million with a third to be invested on growth projects," said Mr O'Malley.

¹ Underlying financial results reflect the Company's assessment of financial performance after excluding non-current asset impairments (\$315M), restructure costs (\$288M), tax impairments (\$268M), borrowing amendment fees (\$6M), business development costs (\$5M); partly offset by the Steel Transformation Plan advance \$70M, profits from discontinued businesses (\$4M) and asset sales (\$2M). This financial information is provided to assist readers to better understand the financial performance of the underlying business.



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ASX Media Release

Release time: 2:00pm
Date: 15 November 2012

BLUESCOPE AGM 2012 UPDATE **Guidance Confirmed, JV with Nippon Steel on track**

At its Annual General Meeting in Melbourne today BlueScope confirmed first half guidance for FY2013. It expects an underlying net loss after tax (NLAT) approaching breakeven - before period-end net realisable value adjustments and subject to spread, FX and market conditions.

The Company also advised shareholders the establishment of the joint venture with Nippon Steel Sumitomo Metals Corporation is progressing well with the proceeds expected to be received in the March quarter 2013 and operations to commence thereafter.

BlueScope Chairman, Mr Graham Kraehe AO, told shareholders that the last 18 months had been a time of transformation for BlueScope. "FY2012 has been another demanding year with a number of major initiatives which have laid the foundations for a return to profitability and growth.

"The investment by Nippon Steel, the world's second largest steel company, in our building products business in Asia and North America recognises an enterprise valuation of US\$1.36 billion and demonstrates the value they see in our global brands and networks. It's also an endorsement of the past 50 years we have spent establishing our businesses throughout Asia.

"We are now seeing the rewards of that investment foresight as our Asian businesses continue to perform well and we see further growth opportunities in our markets in the region.

"There was no final ordinary dividend for FY2012. Our priority is to recommence paying dividends to shareholders when our business has returned to profitability," said Mr Kraehe.

TRADING UPDATE

BlueScope's Managing Director and CEO, Mr Paul O'Malley said, despite continued challenging trading conditions, the group performance in FY2013 to date is in line with expectations.

"The new BlueScope is structured into four distinct market-focused businesses: BlueScope Australia and New Zealand; BlueScope Building Products (our JV with Nippon Steel and our JV with Tata in India); BlueScope Global Building Solutions (our world leading custom-engineered buildings business); and North Star BlueScope Steel (our highly regarded steel mini-mill JV with Cargill in the US).

1. BLUESCOPE AUSTRALIA AND NEW ZEALAND

Coated & Industrial Products Australia (CIPA)

"Pleasingly, as we indicated at full year results in August, despite a deterioration in product and destination mix, and soft macro and regional steel market conditions, we still expect the CIPA business to deliver positive underlying EBITDA in FY2013, with a positive contribution in 2H FY2013, and a neutral to negative contribution in 1H FY2013 (subject to domestic demand and margins, steel spreads and the level of the Australian dollar through the balance of the financial year).

BlueScope Components and Distribution Australia (BCDA)

"The Australian Distribution business continues to experience lower domestic volumes and evidence of 'dumped' imports. The major business improvement program is now well progressed and the benefits of the restructure are being realised.



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ASX Release

Release time: 8:30am
 Date: 18 February 2013

BLUESCOPE'S \$518M TURNAROUND **AUSTRALIAN COATED PRODUCTS BUSINESS BEATS GUIDANCE: DELIVERS EBITDA PROFIT**

BlueScope today announced a \$12 million net loss after tax (NLAT) for the first half FY2013 – a \$518 million turnaround in financial performance compared to the first half in FY2012.

The underlying result was a \$10 million net profit after tax ¹ (NPAT) (including period-end Net Realisable Value (NRVs) adjustments of \$39 million) – a \$146 million improvement over the first half of FY2012.

The Board has decided there will be no interim dividend.

BlueScope's Managing Director and CEO, Mr Paul O'Malley said: "The result is encouraging and notwithstanding difficult trading conditions in Australia, the Coated & Industrial Products Australia (CIPA) segment delivered a positive result of \$79 million in underlying EBITDA ².

"Net debt, as at 31 December 2012, was \$499 million.

"BlueScope and Nippon Steel & Sumitomo Metal Corporation (NSSMC) have now obtained almost all of the regulatory approvals that are required for the Coated Products Joint Venture transaction to be completed and are working towards completion by the end of March 2013. Net proceeds of approximately US\$540 million will deliver a very strong balance sheet and enhance financial flexibility to invest in growth opportunities.

"In summary, the Company is well positioned to benefit from improved financial flexibility and leverage our growth businesses:

- In Australia, our CIPA business has achieved significant cost reductions and is strongly leveraged to a recovery in domestic demand. Next generation ZINCALUME® and COLORBOND® steel products will be launched this year.
- In New Zealand, iron sands exports are expected to increase to 2.7 million tonnes per annum at the start of CY2014.
- The Global Building Solutions business is low cost, with the best customer mix in this market segment, unique intellectual property and a range of low-capital growth opportunities.
- In China, the Xi'an plant will be operational later this year (our fourth Building Solutions plant in China).
- In Asia and North America our Building Products business is growing, and the NS BlueScope Steel joint venture with NSSMC should shortly be completed, delivering new customers and products, with a lower-cost funding base.
- In North America, we expect North Star BlueScope Steel to continue its very good performance and further growth opportunities for this business are being investigated."

BLUESCOPE'S OUTLOOK

The Company's performance continues to improve.

In the second half FY2013 we expect a continued improvement with a small underlying net profit after tax (before period-end net realisable value adjustments, subject to domestic demand and margins, spread and FX).

¹ Underlying financial results reflect the Company's assessment of financial performance after excluding the following items (post-tax): profit on sale of a previously unrecognised intangible asset (\$26M), restructuring & redundancy costs (\$3M), partial release of Steel Transformation Plan Advance to align with carbon costs which are now being incurred (\$16M), tax impairment (\$28M) and other (\$1M). This financial information is provided to assist readers to better understand the financial performance of the underlying operating business.

² Underlying EBITDA includes the following items (pre-tax): partial release of Steel Transformation Plan Advance to align with carbon costs which are now being incurred (\$23M) and a favourable workers compensation settlement (\$36M) which were not contemplated when giving previous market guidance of a neutral to negative underlying EBITDA.

New Zealand Steel

The New Zealand Steel underlying EBIT contribution of \$2 million in 1H FY2013 was lower than 1H FY2012, due to market price weakness and a substantially higher New Zealand dollar. Furthermore, weaker iron ore prices reduced per-tonne revenue from iron sands export operations, but total revenue improved on higher volumes: 831kt was exported in 1H FY2013 compared to 466kt in 1H FY2012.

A significant improvement is expected in 2H FY2013 with a stronger performance from iron sand exports and lower conversion costs than those experienced in 1H FY2013.

The iron sands export expansion is on track to deliver a 2.7Mtpa despatch rate from the beginning of CY2014. This will see BlueScope 55 per cent economically hedged for its iron ore requirements by 2014.

4. NORTH STAR BLUESCOPE STEEL

The Hot Rolled Products North America segment, mainly comprised of our 50 per cent interest in North Star BlueScope Steel, recorded an underlying EBIT of \$33 million for 1H FY2013, a 65% improvement on 1H FY2012. This was achieved through better spreads between steel selling prices and input scrap and iron unit costs, reduction in depreciation charges, and improved operating and cost performance. Subject to market conditions and foreign exchange movements, we expect an improving result in 2H FY2013 based on improving spreads, higher volumes and improved conversion costs.

Together with our joint venture partner, we are progressing the review of growth opportunities at North Star BlueScope Steel.

For further information about BlueScope: www.bluescopesteel.com

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