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## Public File

### Anti-Dumping Continuation 611 – Zinc Coated (Galvanised) Steel exported from China, Korea, and Taiwan

#### 1. Introduction

BlueScope Limited (**BlueScope**) is the manufacturer of zinc coated (**galvanised**) steel in Australia. BlueScope was the applicant company that requested the Anti-Dumping continuation inquiry applicable to exports of the goods from China, Korea, and Taiwan – refer ADN No. 2022/086.

In response to the recently published Exporter Verification Reports (**EVR's**) for Yieh Phui Enterprise Co Ltd (**Yieh Phui**) and KG Dongbu Steel Co Ltd (**Dongbu**), and prior to the publication of the Statement of Essential Facts, BlueScope makes the following comments and representations.

#### 2. Dumping margins highlight pandemic impact; these will reverse

The Anti-Dumping Commission (**the Commission**) has verified for the CY2022 inquiry period that Yieh Phui's preliminary dumping margin was -10.2%, and Dongbu's was -17.5%. The magnitude of these negative margins highlights the unprecedented nature and impact of the COVID-19 pandemic in the Australian steel market, which transpired prior to and throughout the inquiry period. BlueScope submits that these negative margins have not persisted following the inquiry period, and that it is highly unlikely that such negative margins would again transpire over the medium and longer term.

The task of the Anti-Dumping Commissioner under section 269ZHF(2) of the *Customs Act 1901* (**the Act**)<sup>1</sup> is to review an anti-dumping measure that has already been established, for the purpose of determining whether that measure should be continued or expire. The focus of a continuation inquiry is an assessment of what will likely happen in the future; that is, whether the expiration of measures will lead or likely lead to a continuation or recurrence of dumping and material injury. The Act does not set out any particular methodology for undertaking this assessment. Rather, there must be a "sufficient factual basis" for a likelihood of continuation or recurrence of dumping and material injury finding.<sup>2</sup>

In assessing the likelihood of recurring dumping, the Commission's Dumping & Subsidy Manual (**the Manual**) stipulates that an exporters' dumping margin is only one of several factors that the Commission considers relevant.<sup>3</sup> The factors listed by the manual are also themselves non-exhaustive.

<sup>1</sup> A reference in this submission to "the Act", or to a "Section", "Subsection", or "Subparagraph" is a reference to a Section, Subsection, or Subparagraph of the Act, unless otherwise specified.

<sup>2</sup> Appellate Body, US — *Oil Country Tubular Goods Sunset Reviews*, para. 364. There is no requirement under section 269ZHF(2) to ascertain whether each individual factor or consideration is "likely" in the overall assessment under that section. Rather, the "likely" standard section 269ZHF(2) "applies to the overall determinations regarding dumping and injury; it need not necessarily apply to each factor considered in rendering the overall determinations on dumping and injury"; Appellate Body Report, US – *Anti-Dumping Measures on Oil Tubular Goods*, para. 108.

<sup>3</sup> The Manual, p. 137.

BlueScope contends that an appropriate forward-looking assessment will lead the Commission to conclude that it is highly likely that Yieh Phui and Dongbu will transact into the Australian market at material margins of dumping absent the continuation of the measures.

Firstly, BlueScope highlights with the Commission that the comparison of Korean and Taiwanese normal values and export prices for the inquiry period, as submitted in the application for measures continuation, aligns with the Commission's EVR findings.<sup>4</sup> In summary:

**[Confidential Table 1: CY2022 dumping margin comparisons]**

Secondly, and in light of this close alignment, BlueScope has applied a counter-factual methodology for FY2022 to assess what would have been approximate Yieh Phui and Dongbu dumping margins for the inquiry period in the absence of the impact of the pandemic. It can be shown that Korean and Taiwanese Australian export prices would [commercial-in-confidence counterfactual analysis].

**[Confidential Table 2: CY2022 counter-factual dumping margin comparisons<sup>5</sup>]**

The point of this analysis is to highlight the counter-factual trend and that such a trend is that which would be expected to continue post the inquiry period as the impact of COVID-19 recedes. Had COVID-19 not disrupted global supply chains [commercial-in-confidence economic assessment].<sup>6</sup>

### **3. Likelihood of recurrence of material injury is clear**

BlueScope detailed in its continuation application that, inter alia, COVID-19 disrupted global demand and the supply of many products including steel, and the raw materials to produce it. BlueScope submitted that the logistical bottlenecks that had been contributing to rapidly rising inventory levels in countries such as China and across Asia would eventually unwind, resulting in increased exports of galvanised steel to Australia at materially injurious levels.

In US Drums,<sup>7</sup> the WTO Dispute Panel found that the continued imposition of measures must be based on 'positive evidence'. The Panel stated:

*Accordingly, we must assess the essential character of the necessity involved in cases of continued imposition of an anti-dumping duty. We note that the necessity of the measure is a function of certain objective conditions being in place, i.e. whether circumstances require continued imposition of the anti-dumping duty. That being so, such continued imposition must, in our view, be essentially dependent on, and therefore assignable to, a foundation of positive evidence that circumstances demand it. In other words, the need for the continued imposition of the duty must be demonstrable on the basis of the evidence adduced.*

One key consideration for the Commission in the current inquiry is the forward view assessment of what will transpire in a normalised Australian steel market as the impact of the pandemic recedes. The Commission has recently made the requisite positive evidentiary determinations in the following flat steel and pipe & tube continuation inquiries (all of which are closely related to galvanised steel, either as the feed material to manufacture, or as an upstream product thereof):

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<sup>4</sup> Confidential Attachment 1. BlueScope refers the Commission to Appendix A-2 and Confidential Attachment 7 of the continuation application.

<sup>5</sup> Confidential Attachment 1.

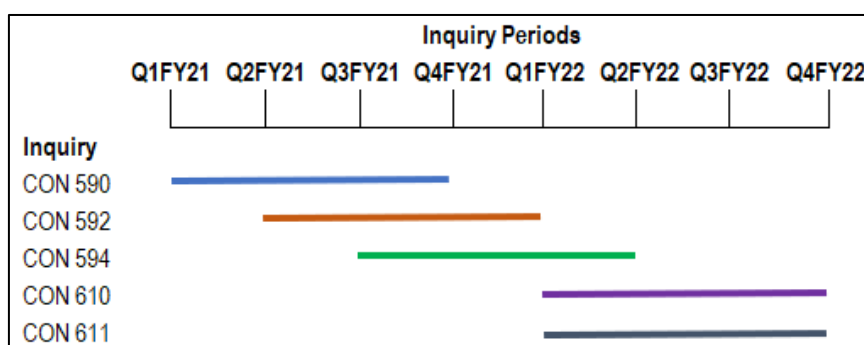
<sup>6</sup> [Commercial-in-confidence economic and dumping margin assessment].

<sup>7</sup> US Drums – WT/DS99/R; para 6.42, page 139.

Continuation No.	Product	Countries	Inquiry Period
CON 590	Hollow Structural Sections (HSS)	China, Korea, Malaysia, Taiwan	Jul. 2020 – Jun. 2021
CON 592	Galvanised Steel	India, Malaysia, Vietnam	Oct. 2020 – Sept. 2021
CON 594	Hot Rolled Coil (HRC)	Taiwan	Jan. 2021 – Dec. 2021

**Non-Confidential Table 1: Recent steel continuation inquiries**

The close proximity (and in the case of HRC, a cross-over) of the above the inquiry periods with Continuation No. 611 and concurrent aluminium zinc coated steel Continuation No. 610 can be visually represented as follows:



**Non-Confidential Table 2: Recent steel continuation inquiries**

In terms of recency and relevance, the Commission’s assessment of the impact of the pandemic and its subsequent determination to continue the measures in CON 594 relating to HRC is summarised below.

### **CON 594 – Hot Rolled Coil**

The Commission found that the inquiry period was marked by anomalous supply and demand conditions that could be attributed to the pandemic:

- i. There was a 25% expansion in the size of the Australian HRC market during the inquiry period.<sup>8</sup> The Commission found that this was fuelled by government stimulus measures intended to support confidence in the residential construction industry, which led to increased activity in the residential construction sector, and a change in consumption patterns towards spending on consumer goods including home improvement materials.<sup>9</sup>
- ii. Ocean freight costs from Taiwan to Australia during the inquiry period had increased by 74% compared to the period examined in Review 538.<sup>10</sup> This aligned with global trends in shipping costs<sup>11</sup> and resulted in higher landed prices of imports.<sup>12</sup>
- iii. There were significant supply chain disruptions<sup>13</sup> which prevented imports from being able to compete month-to-month with Australian-produced goods.
- iv. The trend across the broader economy, of “disruptions in international supply chains [leading] to a shift in favour of local manufacturing”,<sup>14</sup> applied equally to the HRC market during the inquiry period. The contraction in shipping availability combined with increasing costs of international shipping

<sup>8</sup> REP 594, p. 62.

<sup>9</sup> Ibid, p. 21-22, 61-62.

<sup>10</sup> Ibid, p. 20. The Commission compared the unit ocean freight charges paid in Review 528 with the average charges paid during the inquiry period using verified data submitted in response to importer questionnaires.

<sup>11</sup> REP 594, Figure 14, p. 62-63.

<sup>12</sup> Ibid, Figure 11, p. 55.

<sup>13</sup> Ibid, p. 19-20.

<sup>14</sup> ACCC, Container stevedoring monitoring report 2020-21, October 2021, Australian Government, 2021, p. 19, referred to at REP 594, p. 20.

adversely impacted overseas exporters, opening opportunities for domestic suppliers to capture additional sales volume<sup>15</sup> and reducing the price influence of imports in the market.

- v. The above factors fuelled a substantial increase in HRC prices in the Australian market over the inquiry period.<sup>16</sup>

The Commission found that the increase in demand in the Australian market for HRC during the inquiry period would not be sustained in the following years, noting that the HomeBuilder incentive ceased in April 2021, that building approvals had since decreased,<sup>17</sup> and monetary policy settings were being tightened to curb inflationary pressures.<sup>18</sup> The evidence before the Commission showed that HRC prices had already begun to decrease by the end of the inquiry period.<sup>19</sup> The Commission found that freight costs would normalise in the medium to long-term, noting that container costs had already decreased significantly from their peak in late 2021,<sup>20</sup> and that supply chains would stabilise as the rebalancing in demand addressed issues of port congestion and container movements.<sup>21</sup>

The Commission identified that the fundamental features found by the Commission in original HRC investigation No. 188 and Continuation Inquiry 400 were still present in the market. With supply chain conditions normalising, the Australian market for HRC would return to a market driven by a high level of price competition, where price is the most significant factor in purchasing decisions.<sup>22</sup>

The Commission found that, as the anomalous supply and demand conditions associated with the pandemic recede, and the conditions of competition in the market normalise, the close price competition between the Australian industry and dumped exports would likely result in the Australian industry either having to reduce its prices to compete, or face losing market share.<sup>23</sup>

The Commission was thus satisfied that the expiration of the HRC measures would likely lead to a continuation or recurrence of dumping and the material injury that the measures were intended to prevent.<sup>24</sup> These factors assessed by the Commission require the same equal and weighty consideration for galvanised steel in the current inquiry. A comprehensive assessment of the likely post-pandemic market for galvanised steel, alongside recently established and highly relevant precedent, must lead the Commission to extend the measures against China, Korea, and Taiwan beyond August 2023.

#### **4. Further Evidence in support of Measures Continuation**

BlueScope provides at Confidential Attachment 2 recent economic analysis highlighting the continued and increased prevalence of the export focus of Chinese steel producers, the pertinent excerpts of which are detailed as follows:<sup>25</sup>

*[commercial-in-confidence economic analysis]*

BlueScope also encourages the Commission to review fully Confidential Attachment 3. This document provides *[commercial-in-confidence economic analysis]* that supports BlueScope's position that an absence of continued trade measures on galvanised steel will lead to a recurrence of material injury from material margins of dumping by Chinese, Korean, and Taiwanese exporters. This analysis also confirms *[commercial-in-confidence economic analysis]*.

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<sup>15</sup> Ibid, p. 68.

<sup>16</sup> Ibid, p. 4-50, 53.

<sup>17</sup> Ibid, p. 68.

<sup>18</sup> Ibid, p. 53.

<sup>19</sup> Ibid, p. 74.

<sup>20</sup> Ibid, Figure 14, p. 62-63.

<sup>21</sup> Ibid, p. 53, 62.

<sup>22</sup> Ibid, p. 55.

<sup>23</sup> Ibid, p. 64.

<sup>24</sup> Ibid, p. 68.

<sup>25</sup> Confidential Attachment 2.

## 5. **Conclusion**

The preliminary assessment of negative dumping margins for Yieh Phui and Dongbu does not detract from all other positive evidence available to the Commission that demonstrates that the recurrence of dumping and material injury in the future is highly likely in the absence of measures on galvanised steel exports from Korea, and Taiwan.

BlueScope has also provided the Commission with additional positive evidence in support of this position, which highlights the ongoing fragility of the Australian galvanised steel market and details Chinese steel capacity developments that impact the continuation assessment.

BlueScope will also make further representations in response to the forthcoming Statement of Essential Facts.

For and on behalf of BlueScope.