

7 July 2021

Mr Phillip Sheath
Investigations Unit 4
Anti-Dumping Commission
GPO Box 1632
Melbourne Victoria 3001

Email: Investigations4@adcommission.gov.au

Public File

Dear Mr Sheath,

Anti-Dumping/Subsidisation Investigation No. 558 – Aluminium zinc coated steel exported from Korea, Taiwan and Vietnam – POSCO MCC Confidentiality

BlueScope Limited (“BlueScope”) refers to a submission to the Anti-Dumping Commission (“the Commission”) by POSCO dated 28 October 2020 (“POSCO reply”).¹ The POSCO reply was in response to BlueScope’s submission titled, in relevant part, “*Claim for Model Control Code (“MCC”) Confidentiality*” of 8 October 2020 and placed on the electronic public record on 13 October 2020.

In the POSCO reply, POSCO stated that:

“The circumstances of POSCO’s claim for confidentiality with respect to its MCCs has been fully explained to the Commission.

...

POSCO has made a valid request for confidentiality, and it has been recognised by the Commission under Section 269ZJ.

...

The MCC information has a unique quality, the disclosure of which would adversely affect certain business and commercial interest.”

POSCO had earlier sought to justify the Exporter Questionnaire Response confidentiality of its Australian export and domestic market MCC information by claiming that:

- The MCC information is confidential, and it is not practical to provide a non-confidential summary thereof;
- Publication of Australian MCC information would disclose commercial details not ordinarily made available, thereby affecting POSCO Korea’s competitive advantage and market position;
- Release of the MCC information has “...special value...” to certain parties; and
- With non-disclosure of Australian export MCC’s, disclosure of domestic Korean MCC’s serves no purpose.²

¹ EPR Folio No. 024.

² EPR Folio No. 022.

BlueScope submits that the MCC disclosure requirements in Section C of the Exporter Questionnaire are clear:

SECTION C EXPORTED GOODS & LIKE GOODS

The Commission considers the MCC structure in and of itself is not likely to be commercially sensitive information. Any claim that disclosing the MCC information is confidential or would adversely affect your business or commercial interests must be raised by lodging a submission as soon as practicable, but no later than the time this questionnaire is due.

C-1 Models exported to Australia

1. Fully describe all of the goods your company exported to Australia during the period. Include specification details and any technical and illustrative material that may be helpful in identifying, or classifying, the goods exported to Australia.
2. **Provide a list of MCCs** of the goods exported to Australia. This must cover all MCCs listed in the Australian sales listing in B-2.
 - **This list must be disclosed in the public record version of the response.**

C-2 Models sold in the domestic market

1. Fully describe all like goods your company sold on the domestic market during the period. Include specification details and any technical and illustrative material that may be helpful in identifying, or classifying, the like goods sold on the domestic market.
2. **Provide a list of MCCs** of like goods sold on the domestic market. This must cover all MCCs listed in the domestic sales listing in D-2.
 - **This list must be disclosed in the public record version of the response.**

Contrary to POSCO's claims, BlueScope also submits that MCC's do not disclose any information that could be interpreted as being commercially sensitive/confidential, including:

- any exact product details;
- any price information;
- any commercial terms information;
- any quantity/volume information (e.g. by order, by any time period, or total period);
- any information regarding Australian arrival State or port;
- any importer information;
- any end customer identity information; or
- any other information relating to each MCC sale.

As such, it is clear that POSCO's claimed request for MCC confidentiality has no valid basis and should be rejected.

BlueScope's comments in its 8 October 2020 submission also bear repeating – POSCO's claim of an inability to provide a non-confidential summary, when all other respondent exporters are required to and have done so, is not justifiable grounds for confidentiality.

For POSCO to infer that ADN No. 2018/128³ does not apply to it and is instead overridden by Section 269ZJ ignores the confidentiality legislative considerations that the Commission would have had in drafting and publishing the MCC directive Notice. POSCO's response contradicts clear instructions per the exporter questionnaire and challenges the Commission's authority as the investigating body. It also has the clear potential to undermine future investigations where MCC's, as required to be "*...disclosed in the public record version...*", can then be taken as a suggestion or option to be decided upon by the exporter.

³ Mandating MCC disclosures in new investigations, reviews, and continuation inquiries.

BlueScope therefore requests that the Commission require POSCO to provide non-confidential Australian export and domestic market MCC details. Where the Commission has accepted POSCO's claims for confidentiality, BlueScope requests that this be expressly stated, including reasoning, on the electronic public record prior to the publication of the Statement of Essential Facts.

If you have any questions concerning this submission, please do not hesitate to contact me on [REDACTED].

Kind regards,

[REDACTED]
Manager – Trade Measures