

12 October 2021

Mr Phillip Sheath
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Anti-Dumping Commission
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Public File

Dear Mr Sheath,

Anti-Dumping/Subsidisation Investigation 558 – Aluminium zinc coated steel (of a width equal to or greater than 600 millimetres) exported from Korea, Taiwan and Vietnam

1. Introduction

BlueScope Limited (“BlueScope”) is the manufacturer of Aluminium Zinc Coated steel goods in Australia. BlueScope was the applicant company that requested the Anti-Dumping and Subsidisation investigations applicable to Aluminium Zinc Coated steel exported from the Republic of Korea (“Korea”), Taiwan, and the Socialist Republic of Vietnam (“Vietnam”) – refer ADN No. 2020/067.

BlueScope makes the following comments and representations in relation to the recently published Statement of Essential Facts (SEF 558).

2. Executive Summary

In SEF 558, the Anti-Dumping Commission (“the Commission”) has determined that exports from Korea during the investigation period were at dumped prices. The Commission has also found, with respect to exports from Taiwan, that:

- the cooperating exporters Sheng Yu Steel Co Ltd (“SYSCO”) and Yieh Phui Enterprise Co Ltd (“Yieh Phui”) were not exporting at dumped prices; and
- uncooperative exporters were dumping at volumes considered negligible.

For Vietnamese exports of the goods during the investigation period, the Commission has preliminarily determined that:

- the cooperating exporters Hoa Phat Steel Sheet Co., Ltd (“Hoa Phat”) and Hoa Sen Group Joint Stock Company (“HSG”), and all uncooperative exporters, were exporting to Australia at dumped prices;
- the cooperating exporter Nam Kim Steel Joint Stock Company (“Nam Kim”) was not exporting at dumped prices; and
- all exporters were not subsidised, or were subsidised but at negligible levels.

The Commission has found that the dumped exports from Korea and Vietnam caused material injury to the Australian industry.

Subject to responses to SEF 558, the Commissioner proposes to:

- recommend that the Minister¹ publish a dumping duty notice in respect of all exports of the goods from Korea;
- recommend that the Minister publish a dumping duty notice in respect of all exports of the goods from Vietnam, except for Nam Kim's exports;
- terminate the investigation as it relates to Nam Kim;
- terminate the subsidy investigation in respect of all exporters of the goods from Vietnam; and
- terminate the dumping investigation in respect of all exporters of the goods from Taiwan.

BlueScope supports the proposed recommendation to publish a dumping duty notice in respect of exports of the goods to Australia from Korea and Vietnam. BlueScope also supports the imposition of preliminary duties in accordance with Anti-Dumping Notice No. 2021/123.² BlueScope however respectfully submits that the Commission has erred in certain of its preliminary SEF 558 findings, to which the remainder of this submission will address in detail.

3. The Goods – Coating Types

SEF 558 preliminarily concludes that Yieh Phui's *PhuizerFan* product and POSCO's *PosMAC* product are not subject goods within the context of the investigation by virtue, ultimately, that the goods description is in reference to coating type AZ (aluminium zinc) and not any other alloy.³ *PhuizerFan* falls within the metallic coating category of zinc aluminium (ZA); *PosMAC* falls within the coating category zinc magnesium (ZM) coat. Respectfully, the Commission's exclusion of these goods from the scope of the inquiry is incorrect.

BlueScope submits that the Commission continues to have not addressed the substantive issue at hand – that as a matter of commercial and marketplace reality in Australia, the goods which the Commission has excluded from the inquiry can compete with, and interchange with, the included goods, and so are alike and injurious to the domestic industry. The Commission has omitted to take this highly relevant substitutability and interchangeability consideration into account when making its SEF determination.

BlueScope respectfully suggests that it is useful for the Commission to sufficiently considered what the words substitutability and commercial interchangeability mean, and the commercial realities of the Australian industry. Certain terms to assist are set out below:

- the meaning of substitutability:
Noun. 1. substitutability – **exchangeability by virtue of being replaceable**. Commutability, replaceability, exchangeability, fungibility, interchangeability, interchangeableness – the quality of being capable of exchange or interchange.⁴
- the meaning of interchangeability:
(of two things) capable of being put or used in the place of each other: **(interchangeable symbols)**
(of one thing) capable of replacing or changing places with something else: (an interchangeable part).⁵

Recurring through the above terms is 'capable'; in BlueScope's view it is clear that substitutable or something bearing close resemblance, does not mean they need to be identical (and in this case, that the coating types need not be identical).

BlueScope submits that the Commission's main substantive consideration needs to be that the scope of the goods investigated be sufficient to encompass like goods produced by the Australian industry. Specifically, whether the subject goods description includes zinc-aluminium alloys (ZA) and zinc-aluminium-magnesium coatings (ZM) where zinc is the main component of the coating alloy.

¹ Minister for Industry, Science and Technology.

² ADN 2021/123 – Preliminary Affirmative Decision – PAD 558. Electronic Public Record ("EPR") Folio No. 58.

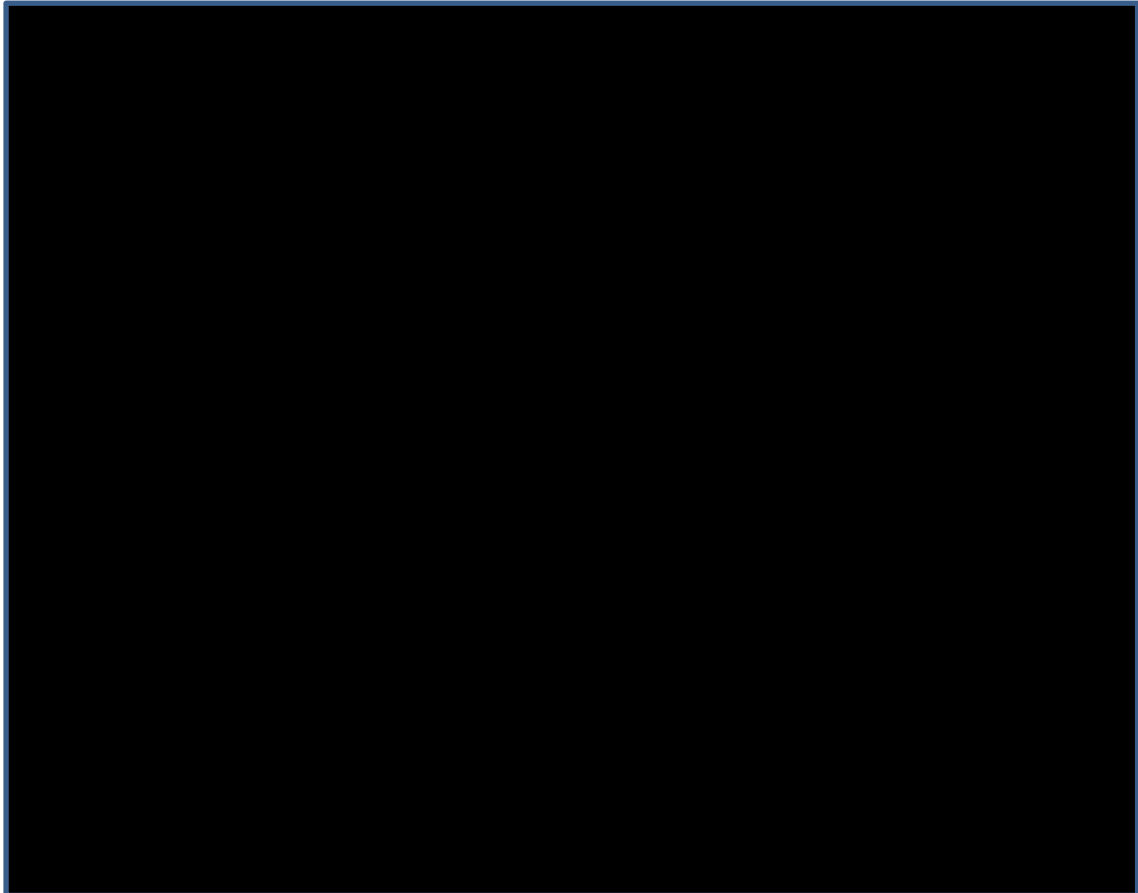
³ SEF 558, p. 26.

⁴ <https://www.thefreedictionary.com/substitutability>.

⁵ <https://www.dictionary.com/browse/interchangeability>.

Despite the formulation and phrasing of the subject goods description, the correct interpretation to be made by the Commission is to include within the investigation coatings of alloys of zinc with aluminium, and zinc with aluminium and magnesium, where zinc is the majority element given substitutability and commercial interchangeability. BlueScope has gone to great lengths throughout the inquiry to substantiate this position and to evidence that the essential characteristics of the goods preliminarily excluded are alike, the multiple submissions of which have been noted by the Commission in SEF 558.⁶

BlueScope also submits that the Commission have regard to world peer subject goods assessments, and provides the below to illustrate:



Confidential Figure 1

The United States (U.S.) and Canada group galvanised steel (100% zinc coating), and any combination of zinc and aluminium (including magnesium) in the one subject and trade remedy dutiable good.⁷ In other words, the U.S. and Canada operate one group of subject goods comprising [X], [X], and [X]. Neither the U.S. or Canada acknowledge the dotted black line.

For trade remedy purposes, India, Indonesia, Thailand, and Malaysia operate one subject and like goods group comprising of [X] and [X].⁸

BlueScope submits that there is world consensus of an absence of the dotted black line in the above figure, that the relevant subject and like goods is [X]+[X], and that the Commission should take this into account.

⁶ SEF 558, p. 20-25.

⁷ Confidential Attachment 1.

⁸ Ibid.

Finally, BlueScope refers to Confidential Attachment 2 [*commercial-in-confidence subject goods considerations*].

BlueScope has addressed the substantive substitutability and interchangeability goods inclusion issue comprehensively, yet the Commission, respectfully, has continued to focus on the surface level phrasing of the goods description and coating type compositions. BlueScope reiterates that the goods description for Investigation 558 includes all aluminium zinc magnesium coated steel product variants regardless of the amount or percentage of aluminium contained within the total coating. This includes the *PosMAC* and *Phuizerfan* products.

4. Normal Value Adjustments & Dumping Margins

4.1 Normal Value Adjustments – All Cooperating Exporters

To assist in the below discussion, BlueScope has tabled and compared normal value adjustments for all cooperating exporters:

Type	KG Dongbu	Dongkuk	SYSCO	Yieh Phui	Hoa Phat	HSG	Nam Kim
Deduct Domestic Inland Transport	x	✓	✓	✓	✓	✓	✓
Deduct Domestic Bank Fees	x	x	✓	x	x	✓	x
Deduct Domestic Other Expenses	x	x	x	x	✓	x	x
Deduct Domestic Credit Terms	✓	✓	x	x	x	✓	✓
Deduct Domestic Insurance	x	x	x	x	x	✓	x
Deduct Domestic Packaging	✓	✓	✓	✓	x	x	✓
Deduct Domestic Commissions	x	x	x	x	✓	x	✓
Deduct Domestic Warranty Expenses	✓	x	✓	x	x	x	x
Add Export Packaging	✓	✓	✓	✓	✓	x	x
Add Export Inland Transport	✓	✓	✓	✓	✓	✓	✓
Add Export Commissions	x	x	✓	x	x	x	x
Add Export Handling and Other Charges	x	x	✓	✓	✓	x	x
Add Export Trade Promotion Fee	x	x	x	✓	x	x	x
Add Export Port Charges	✓	✓	x	x	x	✓	✓
Add Export Brokerage Expenses	✓	x	x	x	x	x	x
Add Export Bank Charges	✓	✓	✓	✓	x	✓	✓
Add Export Container Loading Costs	x	x	x	x	x	x	✓
Add Export Other Selling Expenses	x	x	x	✓	x	x	x
Add Specification (Surrogate)	✓	✓	x	✓	✓	✓	x
Add/Deduct Level of Trade	x	x	✓	x	x	x	x
Add/Deduct Timing Differences	x	✓	✓	✓	✓	✓	✓

Adjustment Made	✓
Adjustment Not Made	x

Non-Confidential Table 1: Normal Value Adjustments

Reference will be made to certain of these further below.

4.2 Korea

The Commission has made the following normal value adjustments for the Korean cooperating exporters KG Dongbu Steel Co., Ltd (“KG Dongbu”) and Dongkuk Steel Mill Co., Ltd (“Dongkuk”):

Normal Value Adjustment Type	KG Dongbu	Dongkuk
Deduct Domestic Credit Terms	✓	✓
Deduct Domestic Packaging	✓	✓
Deduct Domestic Warranty Expenses	✓	✗
Add Export Packaging	✓	✓
Add Export Inland Transport	✓	✓
Add Export Port Charges	✓	✓
Add Export Brokerage Expenses	✓	✗
Add Export Bank Charges	✓	✓
Add Specification (Surrogate MCC)	✓	✓
Add/Deduct Timing Differences	✗	✓

Non-Confidential Table 2: Korean Normal Value Adjustments

For the table above (and all others below), the green affirmative tick indicates a consistency of normal value adjustments between exporters. Conversely, the red cross highlights where adjustments differ.

KG Dongbu

For KG Dongbu, BlueScope highlights that an upwards normal value adjustment has not been made for export letter of credit notification costs. An upwards adjustment for this type of cost was made for KG Dongbu as a cooperating exporter in the recent zinc coated (galvanised) steel variable factors review investigation no. 521 (“Review 521”).⁹ With an overlapping inquiry period to investigation 558, a highly similar class of metallic coated goods, and the same channels to the Australian export market, BlueScope would expect an adjustment of this kind in the current inquiry.

Dongkuk

Non-Confidential Table 2 above highlights that the Commission did not make an adjustment to Dongkuk’s normal value for export brokerage expenses. BlueScope understands that Dongkuk incurs this type of cost on metallic coated steel exports to Australia – in Review 521 the Commission made this add back adjustment. BlueScope requests that the Commission reassess this adjustment as it relates to Dongkuk.

4.3 Taiwan

The Commission has made the following normal value adjustments for SYSCO and Yieh Phui:

Normal Value Adjustment Type	SYSCO	Yieh Phui
Deduct Domestic Packaging	✓	✓
Deduct Domestic Warranty Expenses	✓	✗
Add Export Packaging	✓	✓
Add Export Inland Transport	✓	✓
Add Export Commissions	✓	✗
Add Export Handling and Other Charges	✓	✓

⁹ Review 521 – Zinc coated (galvanised) steel from China, India, Korea, Malaysia, Taiwan, and Vietnam.

Add Export Trade Promotion Fee	x	✓
Add Export Bank Charges	✓	✓
Add Export Other Selling Expenses	x	✓
Add Specification (Surrogate MCC)	x	✓
Add/Deduct Level of Trade	✓	x
Add/Deduct Timing Differences	✓	✓

Non-Confidential Table 3: Taiwanese Normal Value Adjustments

At section B-1(1) of SYSCO's response to its Exporter Questionnaire ("REQ"), it stated that sales to the Australian market were made to a trading company during the investigation period.¹⁰ The Commission did not address the existence of this trading company in its exporter verification ("EVR"), saying only that the verification team considered the Australian customer to be the beneficial owner of the goods and therefore the importer.¹¹ SEF 558 also did not raise the matter of the trading company. BlueScope requests that the Commission provide further detail on this, and whether there are any implications for the determination of SYSCO's Australian export price.

4.4 Vietnam

The Commission has made the following normal value adjustments for the Hoa Phat, HSG, and Nam Kim:

Normal Value Adjustment Type	Hoa Phat	HSG	Nam Kim
Deduct Domestic Credit Terms	x	✓	✓
Deduct Domestic Insurance	x	✓	x
Deduct Domestic Packaging	x	x	✓
Deduct Domestic Commissions	x	x	✓
Add Export Packaging	✓	x	x
Add Export Inland Transport	✓	✓	✓
Add Export Handling and Other Charges	✓	x	x
Add Export Port Charges	x	✓	✓
Add Export Bank Charges	x	✓	✓
Add Export Container Loading Costs	x	x	✓
Add Specification (Surrogate)	✓	✓	x
Add/Deduct Timing Differences	✓	✓	✓

Non-Confidential Table 4: Vietnamese Normal Value Adjustments

Nam Kim

Commissions

The Commission has afforded Nam Kim a downwards adjustment for domestic commissions. Nam Kim's EVR disclosed that:¹²

Nam Kim incurred commission costs due to the contractual arrangement with a single customer during the investigation period.

¹⁰ SYSCO REQ, section B-1(1). Folio No. 12.

¹¹ SYSCO EVR, section 7.1, Folio No. 48.

¹² Nam Kim EVR, section 9.1, Folio No. 43.

A weighted average unit rate was calculated for the investigation period using the total commissions paid to the third party against total sales volume. The unit rate was applied to all domestic sales.

BlueScope queries the validity of a downwards adjustment for alleged commissions paid on the domestic Vietnamese market by Nam Kim. In the circumstance that the recipient/agent is a related party (Nam Kim's EVR stipulates that payment was made to a third party, but not the nature of the relationship), or the commission is paid to Nam Kim's employees, the sales function and associated costs are already reflected in the selling price. No adjustment is then required. If there is a related party relationship on the domestic market to which these commissions relate,¹³ the roles and functions performed must be clarified. BlueScope does not consider the downward adjustment to be a legitimate cost incurred on domestic sales in Vietnam as Nam Kim is the producer and seller of the subject goods.

In the consideration of commission normal value adjustments, the Commission's *Dumping and Subsidy Manual* ("the Manual") states:¹⁴

For commissions paid in both markets included in the prices being compared, an adjustment to the domestic sales price for the difference in those commissions is allowed. The domestic sales commission is subtracted and the export sales commission added.

Where a commission is paid in only one of the markets under examination, an allowance is made for relevant selling expenses incurred in the market where the commission had not been paid. Relevant selling expenses include sales-staff salaries, associated overheads such as office, support staff, transport and communications incurred. For example, if a commission paid in the export market is included in the export price, the relevant domestic selling expenses from the domestic selling price are subtracted and the export sales commission is added.

Notwithstanding BlueScope's objection to this normal value adjustment, the Commission has not detailed in SEF 558 where/how an allowance has been made for the relevant selling expenses incurred on the market where the commission has not been paid (in this case, the Australian export market).

BlueScope also draws the Commission's attention to:

- concurrent investigation no. 559 (and its SEF 559 equivalent),¹⁵ where the Commission has not made the same adjustment, notwithstanding that the goods the subject of investigation no. 559, with the exception of the width product characteristic, are identical;
- Table 1 above; Nam Kim's adjustment for commissions is clearly an outlier across the full spectrum of cooperating exporters; and
- Similar steel-related Australian trade remedy investigations concerning Vietnam, which also supports BlueScope's view.¹⁶

Inland Transport

Continuing to apply investigation 559's relevance, SEF 559 makes no normal value adjustment for domestic inland transport for Nam Kim. On this point, the Commission's EVR for Nam Kim, at section 9.1, earlier confirmed that no adjustment was required.¹⁷ SEF 558 does make this adjustment, supported by the Commission's verification conclusions that:¹⁸

*Nam Kim incurred inland transport expenses for the delivery of goods for domestic sales from its factory to **their** customer. (emphasis added).*

¹³ SEF 558 does confirm that Nam Kim sold the goods to a related customer during the investigation period, at p. 62.

¹⁴ Anti-Dumping and Subsidy Manual, November 2018, p. 78.

¹⁵ Investigation 559 – Aluminium Zinc Coated Steel (<600 millimetres wide) from China and Vietnam.

¹⁶ Refer inquiry 362 (Aluminium Extrusions), inquiry 550 (Precision Pipe & Tube), and inquiry 521 (Zinc Coated (galvanised) steel).

¹⁷ Investigation 559, Nam Kim EVR, section 9.1.

¹⁸ Nam Kim EVR, section 9.1.

In calculating and applying the adjustment, Nam Kim’s EVR noted that:¹⁹

*A weighted average unit rate was calculated for the investigation period using the total inland transport paid against total sales volume. The unit rate was **applied to all domestic sales.** (emphasis added).*

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement) requires that, when determining dumping, a fair comparison be made between the export price and the normal value. It states, inter alia, that due allowance be made in each case, on its merits, for differences which “affect price comparability.” Applied here, inland transport expenses appear to affect price comparability for the one Nam Kim customer noted above (emphasised as “their”). BlueScope asserts that this is the only point where the normal value adjustment should be made (i.e. against only those sales of the goods to the singular domestic customer) as this is the only point where price comparability is impacted. There is no evidence elsewhere that supports a claim for an adjustment due to a difference in transport costs affecting price comparability outside of this sole domestic customer.

If the Commission has applied this adjustment to all domestic sales (as suggested in Nam Kim’s EVR), BlueScope requests that the treatment be reversed.

HSG

Commissions

The Commission has afforded HSG a downwards adjustment for domestic commissions, on the basis it is required to ensure a fair comparison to the FOB export price. The adjustment has been based on the domestic commission paid listed for each domestic transaction.²⁰

BlueScope refers the Commission to the above comments made in the case of Nam Kim, as they equally apply to HSG. BlueScope respectfully requests that the Commission disallow this adjustment.

Container Loading Costs

Non-Confidential Table 1 above highlights that an upwards adjustment has been made to Nam Kim’s normal value for export container loading costs. This same type of adjustment however has not been made for Hoa Phat or HSG. BlueScope understands that all three cooperating exporters export the goods to Australia from Ho Chi Minh City (either via the Cat Lai Port, or the Phuoc Long international container terminal). BlueScope therefore submits that any export container loading costs that apply to Nam Kim would also apply to HSG (and Hoa Phat), and requests that the Commission apply the adjustment consistently to ensure price comparability.

Hoa Phat

The Commission undertook a benchmark verification of Hoa Phat’s REQ. The file note covering the verification findings detailed that the following adjustments were necessary to ensure Hoa Phat’s normal value was properly compared with its export price:²¹

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic credit terms	Deduct an amount for domestic credit
Export port handling charges	Add an amount for port and handling charges
Export inland transport	Add an amount for export inland transport

Non-Confidential Table 5: Summary of Adjustments – Verification Report

¹⁹ Ibid.

²⁰ HSG EVR, section 9.1.

²¹ Hoa Phat Verification Report, p. 3, Folio No. 52.

SEF 558 made three additional adjustments to Hoa Phat’s normal value, these being:²²

1. Domestic other (a deduction adjustment for other expenses);
2. Specification (an addition or deduction adjustment for specification differences); and
3. Timing (an addition or deduction adjustment for sales occurring at different times).

BlueScope appreciates the Commission’s requirements to make the latter two adjustments. BlueScope however questions the adjustment for ‘domestic other expenses’. This adjustment was not disclosed as required in Hoa Phat’s verification report, nor did the Commission detail the nature of the adjustment when it surfaced in SEF 558. Furthermore, Hoa Phat is the only cooperating exporter (across all countries investigated) afforded this adjustment. BlueScope submits that this adjustment is not required, and requests it be removed in the determination of Hoa Phat’s normal value.

5. Raw Material Costs

The Commission verified the Hot Rolled Coil (“HRC”) costs associated with the production of the goods for cooperating exporters. SEF 558 found that *...HRC represented a significant and broadly consistent proportion of the CTM of the goods,*²³ depicted as follows:

Producer	Country	HRC as a percentage of total CTM ¹³³
BlueScope	Australia	69%
Dongbu	Korea	78%
Dongkuk	Korea	73%
HSG	Vietnam	96%
Hoa Phat	Vietnam	68%
Nam Kim	Vietnam	82%
SYSCO	Taiwan	73%
Yieh Phui	Taiwan	77%

Non-Confidential Table 6: HRC as a proportion of CTM

BlueScope queries the high number for HSG, and respectfully disagrees that it is broadly consistent with all others.

The Commission’s most recent similar assessment to the above was in Review No. 521, in which it concluded that the Vietnamese HRC costs as a proportion of the zinc coated (galvanised) steel CTM was **88%**.²⁴ The Commission has also recently examined Vietnamese HRC costs as the proportional component in the CTM of precision pipe and tube in Investigation No. 550. In that inquiry, the Commission found that HRC as a proportion of the CTM in Vietnam was **87%-91%**.²⁵ Thirdly, the Commission’s April 2021 SEF conclusion in Investigation No. 553 (painted steel strapping exported from Vietnam),²⁶ found that HRC represented **83%** of the CTM for steel strapping goods.²⁷

BlueScope submits that the HRC/CTM comparisons made in Review 521 and Investigations 550 and 553 are relevant to the current case, as all involve the conversion of flat steel feed material to a similar end-product (in the case of galvanised steel) or to a product with a similar conversion cost base (in the case of precision pipe and tube, and steel strapping).

The outlier is HSG, as its proportional cost sits much higher than all other cooperating exporters in the current inquiry and is inconsistent from a trend perspective to other recent comparable findings. BlueScope submits that non-HRC and conversion costs to account for the full CTM for Hoa Sen cannot be fully reflected in the 4% remaining, when the same costs for Hoa Phat and Nam Kim represent 32% and 18% respectively.

²² SEF 558, p. 57.

²³ SEF 558, p. 126.

²⁴ SEF 521, p. 104.

²⁵ Investigation 550, Final Report, section 6.3.2, p. 43.

²⁶ Investigation No. 553, Dumping and Subsidisation of Painted Steel Strapping from China and Vietnam.

²⁷ SEF 553, p. 31.



BlueScope therefore requests that the Commission reassess HSG's CTM, given the criticality of these cost components to OCOT testing and dumping margin findings.

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

Kind regards,

[REDACTED] [REDACTED]

Manager – Trade Measures