



13 October 2021

Director, Investigations Unit 4
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Dumping investigation into aluminium zinc coated steel (≥600mm) exported from Vietnam

Dear Director,

This submission is made on behalf of Hoa Sen Group Joint Stock Company (HSG) in response to the Anti-Dumping Commission's ("the Commission") Statement of Essential Facts Report No. 558 ("SEF 558"), which contains the preliminary findings relevant to the dumping investigation into aluminium zinc coated steel (≥600mm) from Vietnam. HSG submits the following views and comments for the Commission's consideration.

1. Incorrect timing adjustment

As the Commission is aware, HSG exported four different model control codes ("MCC") during the investigation period. All four MCC's possessed the following characteristics:

- prime product;
- coating mass >100 g/m² to ≤ 165 g/m²;
- structural grades (AS/NZS 1397) G300 and G550;
- of various thickness.
- width greater than 600mm;
- coil form.

Importantly, all products were manufactured to comply with the Australian standard AS/NZS 1397 and were of the structural grades. None of the products exported complied to any other international standard or manufactured for general/commercial grade or forming, pressing & drawing grades.

In those circumstances where there was not a like or surrogate MCC normal value in the same corresponding quarter, the Commission has calculated and applied a timing adjustment. The method for calculating the timing adjustment was by reference to the quarterly change in the normal value of a corresponding MCC, and then indexed to the relevant normal value of the exported MCC. For example, in the case of export MCC "[REDACTED]", the Commission calculated the timing adjustment for the "[REDACTED]", by relying on the change in normal value for MCC "[REDACTED]".

HSG accepts that the method of calculating the timing adjustment is correct. However, it takes issue with the selection of the alternative MCCs used to quantify the quarterly change.

In the example highlighted above, the Commission correctly relied on a MCC manufactured to the same structural grade as the goods exported to Australia. However, for the export MCCs "[REDACTED]" and "[REDACTED]", HSG submits that the Commission has departed from its own policy in selecting MCCs which are most like the exported goods. For both of the exported MCCs, the Commission has incorrectly calculated the timing adjustment by reference to domestic MCC "[REDACTED]".

Critically, the "[REDACTED]" identifier in the steel grade category is a catch all for any other steel grades that do not comply with the more common and typical steel grades and standards. In HSG's case, this



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included steel grades “██████████” and “██████████”. Both of these products have very different mechanical and chemical characteristics as highlighted in the table below:

[CONFIDENTIAL TABLE DELETED]

Despite the physical differences between them, both a collapsed and included in the quarterly average normal values. A closer look at the quarterly sales of these two products within the same MCC, reveals that sales of ██████████ only occurred in ██████████ and sales of ██████████ only occurred in ██████████ and ██████████. This confirms that there is no common relationship when comparing normal values between quarters for MCC “██████████” as the goods within that MCC are significantly different and occurred in contrasting quarters.

Therefore, given the obvious differences in the products classified to the catch all MCC relating to “██████████” steel grade, and the clear timing differences between the sales relied upon for calculating the timing adjustment, it is not appropriate to base the timing adjustment on MCC “██████████”.

Instead, the Commission should follow its own guidance of selecting the most comparable domestic MCC for such comparison, to limit the scope of other characteristics that are not reflected in the exported goods from influencing or distorting the potential outcome. In this case, given that the exported goods were manufactured to the Australian standard AS/NZS 1397 and were produced for structural grade applications, the Commission ought to be basing its timing adjustment on domestic MCC’s which are most comparable to the structural grades exported.

HSG submits that the most comparable domestic MCCs for comparison with the exported MCCs “██████████” and “██████████”, are MCCs “██████████” and “██████████”. This view is supported by the fact that HSG exported the identical MCC “██████████” during the period, and both MCCs include product manufactured to comparable international standards as the exported goods. Therefore, HSG contends that the timing adjustment for ██████████ should be based on quarterly movements in MCC “██████████”, and the timing adjustment for ██████████ should be based on quarterly movements in MCC “██████████”, in exactly the same way that the Commission calculated the timing adjustment for the export MCC “██████████”.

The screenshot below highlights the proposed amendments with the yellow and orange highlighted cells depicting the amendments submitted by HSG, and the grey highlighted cells showing the preliminary MCC relied upon by the Commission in the SEF. Also included at **Confidential Appendix A** is the Commission’s normal value spreadsheet with the amendments made for ease of review. Amending the normal values based on the proposed timing adjustment results in the dumping margin being reduced by approximately ██████████%.

[CONFIDENTIAL TABLE DELETED]

2. Incorrect MCC identifiers – Base metal thickness

During the verification, the Commission sought and was provided with HSG’s extras price list which detailed relevant surcharges and price premiums for characteristics which exceeded the base product. The price list contained a matrix of prices referencing the various available base metal thickness (after coating), with the corresponding coating mass.

A summary of the HSG’s different pricing for different combinations of thickness and coating mass is outlined in the table below. Next to it is a table showing the Commission’s proposed combinations of base metal thickness and coating mass in its original MCC. It is evident that the Commission’s proposed MCC includes fewer thickness ranges and fewer coating mass ranges.

[CONFIDENTIAL TABLE DELETED]

ADC Model Control Code - BMT x Coating mass			
	≤ 100 g/m ²	>100 g/m ² to ≤ 165 g/m ²	>165 g/m ²
< 0.40 mm			
≥ 0.40 mm to < 0.50 mm			
≥ 0.50 mm to < 0.75 mm			
≥ 0.75 mm to < 1.00 mm			
≥ 1.00 mm to < 2.00 mm			

As HSG domestic and export prices are determined on the basis of its own internal pricing guidance, it is important that the company’s extras price list is used for identifying comparable export and domestic sales. HSG therefore requests that the Commission recalculate its dumping margin by

reference to its own thickness and coating mass ranges. This would ensure proper comparison and eliminate the need for specification and timing adjustments, that are caused by the Commission's preference for incorrect sub-categories.

HSG attaches copies of its submitted price lists at **Confidential Appendix B**.

3. Incorrect margin for specification adjustment

HSG disagrees with the altered method to calculate the specification adjustment by reference to the net margin, when it is understood that the Commission's stated practice is to rely on the gross margin. There is no explanation in any report which would explain why it is correct or preferable in this case, for the Commission to depart from its own guidelines. The Commission's policy guidance states that a specification adjustment should include a **gross margin**, which would include '**the administrative, selling and general costs and profit**'.

The Commission's revised calculations clearly do not rely on the gross margin but instead only adds the net margin. This error is worsened as the net margin is added only to the cost to make and not the full cost to make and sell. This is incorrect and clearly inconsistent with the Commission's stated method of applying a gross margin that reflects the combined SG&A margin and profit margin.

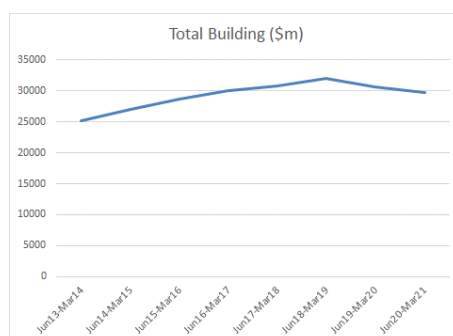
HSG requests the Commission to revise the specification adjustment and revert to the original gross margin.

4. Injury caused by subject imports is negligible

HSG disputes the preliminary finding that Bluescope Steel Limited (BlueScope) has suffered material injury that can be attributed to subject goods exported by HSG. The material injury assessment outlined in SEF 558 does not properly take account of the market dynamics within the Australian market, which would readily explain the circumstances surrounding BlueScope's economic condition during the investigation period.

As noted in SEF 558, BlueScope did not suffer injury in the form of lost or reduced sales volume or market share. This is confirmed at chart 1 of SEF 558 which shows that sales volumes and market share move consistently with changes in the total market size. This confirms and supports the view highlighted at section 5.3.3 of the SEF, that the main driver of demand in the Australian market, is housing and construction activity.

Further evidence of the link between the change in the Australian market size and construction activity, is supported by published total building activity¹ shown in the chart below.



Whilst the Commission has identified the relationship between construction/building activity and the overall Australian market for the subject goods, the analysis within SEF 558 does not properly take account of the distinct competition in the market segments within the Australian market. As the Commission notes, Bluescope's TRUECORE branded product '*is targeted at the house framing market*'. Bluescope's other main product is ZINCALUME, which is used primarily in roofing and walling applications.

Whilst demand for both products can be linked to construction activity, the market dynamics in the framing segment and roofing/walling segment, are substantially different. For this reason, the Commission's preliminary findings are based on, and limited to, a macro analysis which considers the industry's overall performance in the market, relative to total imports. Whilst this approach may be

¹ Source: Australian Bureau of Statistics, Building Activity, Australia March 2021

relevant for understanding the economic condition of the Australian industry, it is less helpful for understanding the specific effects of subject imports with each market segment.

For this, the Commission is required to undertake a micro-analysis which compares prices and competition within each market segment, between particular grades and where possible, direct comparison to common customers. The Commission's price undercutting analysis does not appear to achieve the required micro-analysis as it remains focused at the model control code level, which does not separately identify the destined market segment of the finished good.

Price comparisons at the different market segments is critical given the widely understood effort by BlueScope to offer sharper pricing for its TRUECORE product destined for the framing market, in competition against cheaper timber substitutes. BlueScope's aim was to convert the Australian framing market across to its TRUECORE product. This is confirmed in BlueScope's 2020 financial presentation which highlights the company's marketing effort with regards to TRUCORE, which included:

- Continuing investment in consumer branding and promotion;
- Partnering with builders to promote the benefits through the channel, including co-branding and collateral support.

By contrast, BlueScope's ZINCALUME product and like imports, were competing in a transparent manner, having regard to prevailing supply and demand conditions. Therefore, HSG submits that in examining and assessing injury in the different market segments, injury in the form of price depression or price suppression found to be occurring in the framing market, cannot be attributed to exports destined for the roofing/walling market segment. Likewise, undercutting in the roofing/walling market segment cannot be linked to injury experienced in the framing market. Finally, injury in the framing market cannot be attributed to subject exports destined for the framing market, as injury is caused by BlueScope's pricing strategy aimed at strengthening TRUECORE as a dominate product in that market segment.

To highlight further, the price effects analysis at section 8.4 of SEF 558 does not provide an understanding of the specific price trends evident in the framing and roofing/walling market segments. This is particularly relevant given the Commission noting that price depression was '*not evident across the injury analysis period*' but '*appears to be emerging during the investigation period*'. It is important to understand the relative price movements in each segment, in an effort to better understand the factors that contributed to the apparent price trends.

It is also noted that the Commission has considered that '*BlueScope's subsequent overall company performance is not necessarily directly relevant to the considerations that apply to this investigation because a company may be profitable overall and yet still suffer injury*'. HSG respectfully disagrees.

BlueScope's subsequent vast improvement following the end of the investigation period is relevant, as it helps to understand that the negligible injury found to exist during the investigation period, was undoubtedly transitory. The transitory nature of the injury provides context to the transitory nature of the causal effects, which include the impact of COVID-19, and BlueScope's offer of lower pricing for its TRUECORE product into the framing market, against cheaper timber alternatives.

In HSG's view, SEF 558 does not properly examine the impact of injury in the framing market from BlueScope's TRUECORE product, on their overall economic condition. In failing to properly consider this issue, the Commission has overlooked that BlueScope own commercial decisions with regard to pricing of TRUECORE into the framing market, was the primary cause of any observed price depression evident during the investigation period.

5. Effect of injury should not be cumulated

The Commission proposes to cumulate the effects of injury for subject goods exported from Korea and Vietnam. Critically, the Act allows for cumulation only if the Minister is satisfied that:

- (e) *it is appropriate to consider the cumulative effect of those exportations, having regard to:*
 - (i) *the conditions of competition between those goods; and*
 - (ii) *the conditions of competition between those goods and like goods that are domestically produced.*

As noted earlier, there are two distinct market segments for the subject goods and like goods in the Australian market, being the framing segment and roofing/walling segment. HSG is unaware of details relevant to exports from Korea, but notes that the examples of competition with imports submitted by BlueScope, related to goods exported from Vietnam, with all examples appearing to be relevant to slit aluminium zinc coated steel either directly or indirectly.

Based on this information, and subject to the Commission confirming the primary market segment that Korean exports are destined for, HSG contends that the effects of imports from Korea and Vietnam should not be cumulated.

6. Price undercutting

HSG provides the following observations on the Commission's price undercutting analysis which appears to underpin its proposed finding that the subject exports caused material injury.

1. HSG again reiterates that a meaningful comparative analysis is only achieved by comparing prices of similar products sold into the same market segment. This is important given the distinctive market characteristics and conditions in each of the framing and roofing/walling market segments.
2. The chart at figure 12 of SEF 558 confirms that both dumped and non-dumped goods were undercutting BlueScope's average prices, and that HSG's export prices were below, on-par and above non-dumped Vietnamese exports.
3. The chart at figure 13 of SEF 558 is flawed as it incorrectly combines the price effects of dumped exports from Korea and Vietnam, whilst merging the price effects of non-dumped exports from Taiwan and a single Vietnamese exporter, without any regard or identification of the relevant market segment into which the goods are sold.
4. The price undercutting highlighted at table 32 of SEF 558, is based on MCCs and compares to BlueScope's corresponding quarterly average prices without any differentiation of market segment. This does not provide an indication of the '*high degree of price competition with the Australian market.*' Despite this, it is apparent HSG's exports would substantially undercut BlueScope's prices even at non-dumped levels. This confirms that exports by HSG did not contribute to any observed price depression and suppression during the investigation.

7. Other factors

The Commission's consideration of other possible and likely factors that may have contributed to the observed injury during the investigation period, appears to be lacking analysis which properly isolates and distinguishes the effects of other factors from dumped imports. In particular, given that the investigation period occurs parallel with the impact of COVID-19 and the downstream effect on supply chains, global steel and raw material shortages, the Commission's analysis is inadequate for isolating those impacts and properly identifying the price effects attributable to dumped imports.

Subsection 269TAE(2A) of the Act requires that the Minister must consider whether any injury '*is being caused or threatened by a factor other than the exportation of those goods*'. The obligation to ensure non-attribution is found in Article 3.5 of the Anti-Dumping Agreement and has been interpreted by the Appellate Body in *US – Hot rolled steel*², which ruled:

The non-attribution language in Article 3.5 of the Anti-Dumping Agreement applies solely in situations where dumped imports and other known factors are causing injury to the domestic industry at the same time. In order that investigating authorities, applying Article 3.5, are able to ensure that the injurious effects of the other known factors are not 'attributed' to dumped imports, they must appropriately assess the injurious effects of those other factors. Logically, such an assessment must involve separating and distinguishing the injurious effects of the other factors from the injurious effects of the dumped imports. If the injurious effects of the dumped imports are not appropriately separated and distinguished from the injurious effects of the other factors, the authorities will be unable to conclude that the injury they ascribe to dumped imports is actually caused by those imports, rather than by the other factors. Thus, in the absence of such separation and distinction of the different injurious effects, the investigating authorities would have no rational basis to conclude that the dumped imports are indeed causing the

² Appellate Body Report, *US – Anti-Dumping Measures on certain Hot-Rolled Steel products from Japan*, WT/DS184/AB/R, para 223; pages 74-75.

injury which, under the Anti-Dumping Agreement, justifies the imposition of anti-dumping duties.

We emphasize that the particular methods and approaches by which WTO Members choose to carry out the process of separating and distinguishing the injurious effects of dumped imports from the injurious effects of the other known causal factors are not prescribed by the Anti-Dumping Agreement. What the Agreement requires is simply that the obligations in Article 3.5 be respected when a determination of injury is made.

The Appellate Body added³:

[A]lthough this process may not be easy, this is precisely what is envisaged by the non-attribution language. If the injurious effects of the dumped imports and the other known factors remain lumped together and indistinguishable, there is simply no means of knowing whether injury ascribed to dumped imports was, in reality, caused by other factors. Article 3.5, therefore, requires investigating authorities to undertake the process of assessing appropriately, and separating and distinguishing, the injurious effects of dumped imports from those of other known causal factors.

It is therefore incumbent on the Commission to isolate and distinguish the effects of other factors from dumped imports, and to proactively investigate these other factors, and where possible aim to quantify the effects.

Instead, the Commission makes no effort to segregate the effects of identified other factors and dumped imports, beyond dismissing their relevance. For example, the Commission dismisses the impact of BlueScope's aggressive pricing strategy relevant to its TRUECORE framing product on the basis that indexed prices in table 34 are increasing. Whilst this may address the claim of loss-making, it does not refute that BlueScope's prices of its TRUECORE product were discounted relative to ZINCALUME products.

By dismissing each of the other factors, the Commission is wrongly attributing all of the price effects experienced by the Australian industry during the investigation period, to dumped exports.

³ Ibid., para 228, page 76.