

**Anti-Dumping and Countervailing Duty Investigation on
Aluminum Zinc Coated Steel from the People's Republic of
China**

Consultation Points of GOC

The Government of the People's Republic of China ("GOC") has been informed that the Australian Anti-Dumping Commission ("ADC") recently received an application lodged by BlueScope Steel Limited. ("Applicant"), requesting the ADC to initiate an investigation on the dumping and countervailing duty of the Aluminum Zinc Coated Steel of a width less than 600 millimeters ("Subject Merchandize") originating in or exported from China. The GOC welcomes the opportunity to have consultation with the ADC on the possible investigation against imports of the Subject Merchandize from China, and would like to take this opportunity to express its position and concern, but it does not mean that the GOC recognizes the possible initiation of the anti-dumping and countervailing duty investigation. The GOC is submitting this position paper for the purpose of consultation under Article 13.1 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). The following aspects are not exhaustive, and nothing will prevent us from presenting other issues in the follow-up consultation.

I. General Comments

Firstly, China noted that, Australia is conducting several trade remedy investigations related to Chinese steel products. Products under investigation include the aluminum zinc coated steel (of a width more than 600 millimeters), the zinc coated steel, the painted steel strapping, the hollow structural sections and the hot dip galvanized angle steel, which has covered similar products of the Subject Merchandize with the Aluminum Zinc Coated Steel (of a width more than 600 millimeters) and the Zinc Coated Steel and the downstream products of the Subject Merchandize of Painted Steel Strapping. Even if the Australian aluminum zinc plate industry were indeed harmed by the like products imported from China, sufficient remedy has already been provided by ongoing AD and CVD investigations. An additional AD and CVD investigation on the Subject Merchandize will be a waste of the administrative resources.

China would also like to remind Australia that taking trade remedy measures for similar products intensively may raise the price of relevant products, which will cause the cost increasing in the relevant downstream industries. Under the situation of the COVID-19 epidemic and the economic downturn, the rising cost may cause difficulties in operation of downstream industries. The similar situation has happened in the United States. When the steel imports declined sharply after the 232 measure is applied, a large number of products which use iron and steel as raw

materials experienced a sudden rise in cost, which aggravated the operation difficulties of the US's downstream products manufacturers during economic downturn. China would like to ask Australia to learn from the experience and lessons of the United States that where there is an anti-dumping and countervailing duty investigation, it is not only the product under investigation that are affected, but also the whole industrial chain of upstream and downstream products. Similarly, such investigation will not only affect the Chinese manufacturers and exporters, but also the US importers and downstream manufacturer. Excessive trade remedy investigations are bound to further hurt the fragile economy under the COVID-19 pandemic.

On this basis, China would also like to draw Australia attention that, Australia, as the main exporter of iron ore, and China, as the most important steel producer in the world, have established close cooperative relations in Iron ore - steel products industry chain. Intensive investigation to China's steel products will also hurt the interests of Australian mining enterprises. According to the *World Steel Statistics 2019* published by the World Steel associated, in 2018, Australia exports 682.4 million tons of iron ore to China, which occupied 76.64% of Australia's total iron ore exports in 2018. The statistics show that the Australian iron ore industry relies heavily on exports to China. If China's steel enterprises reduce their iron ore imports due to the

impact of trade remedy, it is likely to damage the interests of Australian iron ore producers. In addition, we also noted that Australian iron ore exports accounted for 98.8% of its production in 2018. At the same time, the apparent consumption of iron ore in Australia is only 109 million tons, accounting for only 1.2% of the output.¹ This indicates that the industrial characteristics that Australia has formed are relying on the export of iron ore but belittling the production of steel products. Under this industrial structure, the cooperation between Australia and China, the main iron ore importer and main steel producers, will protect the industrial interests of both China and Australia to the greatest extent. A rash and excessive trade remedy investigation to China's steel products may create income pressure on Australian iron ore producers while lead to shortage of relevant steel products in Australia, product price surge and raising the cost of downstream industries in Australia.

To sum up, China believes that the anti-dumping and countervailing duty investigations already initiated by Australia which have covered similar products of the Aluminum Zinc Coated Steel of a width less than 600 millimeters are sufficient to remedy the possible industrial damage. The industrial structure of China and Australia has determined that in the area of steel products, a peaceful and harmonious relationship between China and Australia will make both winners, while a confrontational

¹ *Steel Statistics Yearbook 2019.*

one will make both losers. We would encourage Australia to face up to the characteristics of the industrial structure of and in-depth cooperation between China and Australia and consider the adverse effects for trade remedy investigation on the industrial chain, thus avoids the excessive use of trade remedies which may cause losses to the enterprises of China and Australia.

Under the situation that the COVID-19 epidemic is still spreading around the world, all countries should unite to fight against the epidemic and use trade remedy measures with caution. China adheres to this principle and has not initiated a single trade remedy investigation against any country this year. However, we regret to see that Australian investigating authority has maintained trade cases on Chinese products and has initiated five trade remedy investigations on three kinds of Chinese products. The number of case and amount of case value have increased significantly compared with the same period last year. We respect the rights of investigating authorities of all countries to safeguard their own industry security, but we still hope that the investigation authorities, including Australia, can use trade remedy measures with restraint and caution to avoid it becoming a tool of trade protection.

II. The Applicant Abuses Trade Remedy Investigations to Eliminate Competition

The GOC noted that BlueScope steel limited, the applicant in this case, not only has a monopoly position in the production of plates, but also has been sued by ACCC, the Australian anti-monopoly authority, because of the suspicion of cartel behavior i.e. trying to raise the sales price of certain product together with other sellers.² This shows that BlueScope has always inclined to abuse its dominant position in the market, eliminate competition and manipulate price to pursue huge profits. In this context, the GOC has reasons to believe that the applicant is trying to exclude competition from foreign suppliers through a large number of anti-dumping and countervailing duty investigations, thus to further consolidate its monopoly position and lay a foundation for raising the price of relevant products in the end.

The GOC believes that Australian investigating authority would recognize that full competition can bring good quality and cheap products to downstream consumers, can stimulate technological progress and improve efficiency of related industries, and thus plays a positive role in economic development. The GOC hopes that the Australian investigating authority not be used by the applicant as a tool for pursuing their monopoly status. As a government authority, the Anti-dumping Commission should take into consideration of the whole picture

² Financial Times: *Australian regulator sues BlueScope for alleged cartel conduct*, <https://www.ft.com/content/cf969244-cacb-11e9-a1f4-3669401ba76f>, last visit on 19 June 2020.

and long-term goal and not investigate this case, thus to prevent monopoly, to maintain a full-competition and dynamic status of the industry, to protect the interests of downstream industries and to facilitate the healthy development of the whole industrial chain.

III. The Alleged Subsidies Lack Basis

According to Article 11.2 and 11.3 of the SCM Agreement, an applicant shall provide evidence of the existence of a subsidy, injury and a causal link between the subsidized imports and the alleged injury. However, the applicant did not provide any relevant evidence in the application to prove the existence of relevant subsidies during the investigation period. The applicant only provided two lists of subsidy programs, which covers the subsidy programs confirmed by the Australian Anti-dumping Commission in the previous investigations of steel products. However, the period covered by those investigations is 2017, which is not the investigation period of this case. Such simple lists could by no means meet the requirements of accuracy, adequacy and sufficiency as set forth in Article 11.2 and 11.3 of SCM Agreement.

In addition, the previous ruling cannot be taken as the evidence to prove the existence of subsidy programs as alleged because the findings were made based on facts available rather

than on the evidence on the record, which covers a large number of wrong, outdated or one-sided information.

Specifically, the following problems need to be noticed:

1. Preferential Tax Programs for Foreign-invested Enterprises Have Expired

China noted that a large number of preferential tax programs for foreign-invested enterprises are included in the subsidy list provided by the applicant. This category of programs include Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones, Preferential Tax Policies for Foreign Invested Enterprises – Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years, Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area) and Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai. In 2008, with the *Enterprise Income Tax Law* entering into force, the *Income Tax of Enterprises with Foreign Investment and Foreign Enterprises*, which is the basis of the above-mentioned program, has expired. Therefore, during the investigation period, no enterprise can benefit from these expired programs.

2. Government Provision of Goods and Services for Less

Than Adequate Remuneration

It is the GOC's long-standing position that it strongly disagrees with the ADC on its finding and determining that the Chinese State-owned raw materials suppliers are public bodies under SCM Agreement. In the case of DS379, the Appellate Body found that DOC has acted inconsistently with Article 1.1(a)(1), Articles 10 and 32.1 of the SCM Agreement. According to the explanation made by the Appellate Body, the majority ownership of the government shares in an entity alone cannot suffice a finding that the entity is a public body, which needs to be vested with government authority and/or performs a governmental function.

In the current application, the applicant alleged that hot-rolled steel was provided for less than adequate remuneration. However, the applicant provided no evidence to demonstrate whether the alleged raw material producers are state-owned, let alone evidence to demonstrate such producers are vested with government authority and/or performs a governmental function. In short, the applicant fails to prove such raw material producers are public bodies. Therefore, the ADC should not investigate this program.

3. Local Grant Programs

The GOC has noted that the subsidy list provided by the applicant includes many local grant programs in China. Even if

these local grant projects still existed in the investigation period, obviously, only enterprises in the same area could use these projects. If the enterprises under this investigation are not located in these areas, it is impossible for them to benefit from these programs. These projects include: Patent Award of Guangdong Province, Grant for key enterprises in equipment manufacturing industry of Zhongshan, Water Conservancy Fund Deduction, Wuxing District Freight Assistance, Huzhou City Public Listing Grant, Huzhou City Quality Award, Huzhou Industry Enterprise Transformation & Upgrade Development Fund, Wuxing District Public Listing Grant, Jinzhou District Research and Development Assistance Program, Infrastructure Construction Costs Of Road In Front Of No.5 Factory, New Type Entrepreneur Cultivation Engineering Training Fee Of Jinghai County Science And Technology Commission, Subsidy For Pollution Control Of Fengnan Environmental Protection Bureau, Subsidy from Science and Technology Bureau of Jinghai County and Subsidy of Environment Bureau transferred from Shiyou. China respectfully requests Australia to note that the above programs include many programs at district level which is the lowest administrative level in China. The probability that the responding enterprises locate in the same district is very small, and the possibility of receiving the alleged subsidies is even less.

Since the applicant did not provide any evidence to prove the existence of subsidies in the investigation period, it failed to

meet "Sufficient evidence" requirements of Articles 11.2 and 11.3 of SCM Agreement. China believes that the Applicant did not take the application seriously, for the allegations about subsidy programs are incredibly rough. It is because the applicant did not provide evidence to prove the existence of subsidy programs that outdated and local programs are included in this application. Once these the investigation were initiated towards such programs, it would cause serious waste of administrative resources of both governments.

In conclusion, the GOC would suggest that the ADC comprehensively consider the necessity of the anti-dumping and countervailing duty investigation and potential adverse effects on Australian domestic enterprises and industries, and reject the application according to law.