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### Public File

Dear Mr Sheath,

### **Anti-Dumping/Subsidisation Investigation 559 – Aluminium zinc coated steel (of a width less than 600 millimetres) exported from China 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 People’s Republic of China (“China”), and the Socialist Republic of Vietnam (“Vietnam”) – refer ADN No. 2020/068.

BlueScope makes the following comments and representations in relation to the recently published Statement of Essential Facts (SEF 559).

#### **2. Executive Summary**

In SEF 559, the Anti-Dumping Commission (“the Commission”) has determined that exports from China during the investigation period were at dumped and subsidised prices. The Commission has also found, with respect to exports from Vietnam, that:

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

The Commission has preliminarily found that injury, if any, caused to the Australian industry from dumped exports from China and Vietnam, and from subsidised exports from China, was negligible.

Subject to responses to SEF 559, the Commissioner proposes to:

- terminate the investigation as it relates to Nam Kim on the basis that its exports were not at dumped or subsidised prices;
- terminate the countervailing investigation as it relates to exports from Vietnam on the basis that there was a negligible level of subsidisation; and
- terminate the investigation as it relates to the remaining exporters from China and Vietnam on the basis that dumped and/or subsidised exports caused negligible injury to the Australian industry.

BlueScope supports the finding of positive dumping and subsidisation for China, and positive dumping for HSG and all uncooperative Vietnamese exporters.

BlueScope however does not support the above-noted termination proposals, and respectfully submits that the Commission has erred in certain of its preliminary SEF 559 findings, to which the remainder of this submission will address in detail.

### 3. Normal Value Adjustments & Dumping/Countervailing Margins

#### 1. China

#### Normal Values & Export Price

SEF 559 determines that all exporters of the goods from China during the investigation period were uncooperative. The China export price has thus been determined by the Commission under section 269TAB(3)<sup>1</sup> having regard to all relevant information, in this case the Free on Board (“FOB”) import price data in the ABF import database.<sup>2</sup>

The Commission has similarly established the China normal value having regard to all relevant information, this being the verified normal value information in respect of uncooperative exporters from China from Review 522<sup>3</sup> (with HRC cost indexation applied between cooperating exporters from Korea and Taiwan from Review 522 to those from investigation 558).<sup>4</sup>

In Review 522, the Commission determined Chinese normal value adjustments using the highest of the weighted average normal values established for cooperating selected exporters in the fiscal year 2019 review period, less favourable adjustments. The two cooperating exporters were Zhejiang Huada New Materials Co., Ltd. (“Huada”) and Jiangyin Zongcheng Steel Co., Ltd. (“Zongcheng”), the Review 522 normal value adjustments of which were as follows:

Huada:

Adjustment Type	Deduction/addition
Export inland transport	Add an amount for export inland transport
Export port handling charges	Add an amount for port charges and other charges
Export other costs	Add an amount for other export costs
Non-refundable VAT	Add an amount for non-refundable VAT

Non-Confidential Table 1: Summary of adjustments – Huada – Review 521

Zongcheng:

Adjustment Type	Deduction/addition
Domestic packaging	Deduct an amount for domestic packaging
Export packing cost	Add an amount for export packaging
Export inland transport	Add an amount for export inland transport
Export port handling charges	Add an amount for port charges
Export other costs	Add an amount for other costs
Non-refundable VAT	Add an amount for non-refundable VAT

Non-Confidential Table 2: Summary of adjustments – Zongcheng – Review 521

With the exception of a specification adjustment to account for width differences vis-à-vis investigation 558, SEF 559 is silent on Chinese uncooperative normal value adjustments. Whilst it may be implied in SEF 559, BlueScope requests that the Commission clarify that all unfavourable adjustments have been applied to the determined Chinese normal value in the current inquiry.

<sup>1</sup> All references to statutory provisions in this submission are references to the *Customs Act 1901*, unless otherwise specified.

<sup>2</sup> SEF 559, p. 28.

<sup>3</sup> Review 522; a variable factors review of aluminium zinc coated steel from China, of a width less than 600 millimetres.

<sup>4</sup> SEF 559, p. 28.

## Subsidy Programs – Raw Materials At Less Than Adequate Remuneration

The Commission has preliminarily found that Chinese exporters of the goods to Australia during the investigation period were in receipt of countervailable subsidies, and that the volume of subsidised goods was not negligible. The determined subsidy margin for non-cooperative exporters is 20.8%.<sup>5</sup>

In assessing Chinese subsidies, SEF 559 states that:<sup>6</sup>

*The commission has not previously investigated subsidy programs relevant to the subject goods exported from China. However, the commission has previously assessed subsidy programs in respect of aluminium zinc coated steel of a width equal to or greater than 600 mm imported from China, most recently in Review 522. The commission considers that subsidy programs relevant to aluminium zinc coated steel of a width equal to or greater than 600 mm would be relevant to the subject goods, which differ only in their physical width and are otherwise identical. As there were no cooperative entities from China and the GOC did not participate in the investigation, the commission considers it reasonable to assess the programs relevant to aluminium zinc coated steel of a width equal to or greater than 600 mm from China which were examined in Review 522.*

*The commission has examined the subsidy programs which were assessed in Review 522 (refer to Table 15). Given the similarity between the subject goods and the goods relevant to Review 522, the commission assessed whether any of the programs from Review 522 would not be relevant to the subject goods on account of their differing width. There was no program assessed in Review 522 which would not be relevant to the subject goods. The commission is satisfied that any subsidies identified in previous aluminium zinc coated steel cases would also be applicable to the goods.*

*The commission has investigated each of the 94 subsidy programs assessed in Review 522.*

Critically, SEF 559 addresses the definition of government, public, and private bodies in the assessment of countervailable subsidy benefits for:

- Program 1: Hot rolled steel provided by government at less than fair market value;
- Program 2: Coking coal provided by government at less than adequate remuneration; and
- Program 3: Coke provided by government at less than adequate remuneration.

stating that SIE's producing steel raw materials continue to be considered 'public bodies' for the purposes of the definition of a subsidy under the Act.

For the above programs in Review 522, the Commission concluded:<sup>7</sup>

*The Commission considers that no new information has been provided that would warrant a reconsideration of the determinations made in previous inquiries and, in conjunction with the assessment of SIEs as public bodies for the current review (refer to Non-Confidential Appendix C), wherein it was found that SIE's constitute public bodies in the meaning of section 269T(1), the Commission has maintained its position that Programs 1 to 3 are countervailable. **No amount of countervailable subsidy was determined in relation to Programs 1 to 3 for the cooperative exporters during the review period.***

*The Commission has examined the cooperating exporters' data and found that, since none are vertically integrated and because coke and coking coal are not inputs to their production, **none of the cooperating exporters could be in receipt of Programs 2 or 3.** As such, the Commission does not have sufficient relevant information to find that any exporters of the goods from China would have received a benefit in respect of Programs 2 and 3. Therefore, the Commission has excluded Programs 2 and 3 from the calculation of the uncooperative subsidy rate.*

<sup>5</sup> SEF 559, p. 39.

<sup>6</sup> SEF 559, p. 41-42.

<sup>7</sup> Review 522 Final Report, p. 130-131.

On consideration of Program 1, HRC is the other relevant input to the production of the goods and the input relevant to the cooperating exporters of the goods from China. None of the cooperative exporters were found to have been in receipt of a benefit under Program 1. **The Commission considers that HRC is a relevant input for non-cooperative exporters of the goods from China and that non-cooperative exporters have been in receipt of a benefit under Program 1.** (emphasis added).

The Commission’s narrative in SEF 559 is similar and provides a consistent conclusion regarding Programs 2 and 3.<sup>8</sup> In relation to Program 1, SEF 559 states in totality that:<sup>9</sup>

*...the commission has maintained its position that Programs 1 to 3 are countervailable. **No amount of countervailable subsidy was determined in relation to Programs 1 to 3 for the cooperative exporters during the investigation period.*** (emphasis added).

BlueScope requests that the Commission provide clarity on this critical point. Has the Commission found, similar to Review 522, that *non-cooperative* Chinese exporters (the only type in the current inquiry) are in receipt of a benefit under Program 1, and is this reflected in the SEF 559 subsidy margin of 20.8%? If not, BlueScope requests that the subsidy margin be revised upwards to account for this. BlueScope also requests that the Commission detail its calculation methodology in the determination of a benefit under Program 1.

### 3.2 Vietnam

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

Normal Value Adjustment Type	HSG	Nam Kim
Deduct Domestic Credit Terms	✓	✓
Deduct Domestic Insurance	✓	✗
Deduct Domestic Inland Transport	✓	✗
Deduct Domestic Packaging	✗	✓
Deduct Domestic Commissions	✓	✗
Deduct Domestic Bank Fees	✓	✗
Add Export Packaging	✗	✓
Add Export Inland Transport	✓	✓
Add Export Handling and Other Charges	✓	✓
Add Export Bank Charges	✓	✓
Add Export Container Loading Costs	✗	✓
Add/Deduct Specification	✓	✓
Add/Deduct Timing Differences	✓	✓

**Non-Confidential Table 3: Vietnamese Normal Value Adjustments**

### 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 commissions paid listed for each domestic transaction.<sup>10</sup>

<sup>8</sup> SEF 559, p. 80, paragraph 3.

<sup>9</sup> SEF 559, p. 80, paragraph 2.

<sup>10</sup> HSG Exporter Verification Report (“EVR”), section 9.1.

BlueScope queries the validity of a downwards adjustment for alleged commissions paid on the domestic Vietnamese market by HSG. In the circumstance that the recipient/agent is a related party (SEF 559 and HSG's Exporter Verification Report ("EVR") is silent on this), or the commission is paid to HSG'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, 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 HSG 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:<sup>11</sup>

*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 559 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:

- Table 1 above, where a commissions adjustment has not been made for Nam Kim; and
- Similar steel-related Australian trade remedy investigations concerning Vietnam, which also supports BlueScope's view.<sup>12</sup>

#### Container Loading Costs

Non-Confidential Table 3 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 has not been made for 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 requests that the Commission apply the adjustment consistently to ensure price comparability.

#### Dumping Margin Disparity

SEF 559 preliminarily concludes that the goods exported to Australia from Vietnam during the investigation period were dumped by the following margins:

Exporter	Dumping margin (%)
HSG	9.3
Nam Kim	-7.2
Uncooperative exporters	12.5%

**Non-Confidential Table 4: SEF 558 Vietnam Dumping Margins<sup>13</sup>**

<sup>11</sup> Anti-Dumping and Subsidy Manual, November 2018, p. 78.

<sup>12</sup> Refer inquiry 362 (aluminium extrusions), inquiry 550 (precision pipe & tube), and inquiry 521 (galvanised steel)

<sup>13</sup> SEF 559, p. 37.

The disparity of dumping margins between Nam Kim and HSG is significant (the difference being a commercially improbable **16.5%**). BlueScope respectfully submits that the negative margin finding for Nam Kim is commercially misaligned and inconsistent with the findings for HSG and uncooperative exporters. The size of the negative margin of 7.2% effectively means that Nam Kim's exports to Australia during the investigation period were at least 7.2% more profitable than domestic sales. If this had transpired during the period, an increase in sales to Australia would have been expected – based on Nam Kim's strategic aims in growing its export sales<sup>14</sup> – yet detailed import statistics for the investigation period indicated that while Vietnamese volumes of the goods in the Australian increased, the trend between HSG and Nam Kim was similar.<sup>15</sup>

In the determination of Vietnamese export volumes, prices, and prima facie dumping margins, Confidential Attachment B-4.1 to BlueScope's application to Investigation 559 evidenced similar across-the-board FOB export prices for HSG and Nam Kim into the Australian market during the investigation period.<sup>16</sup> This provided an initial indication that pricing for the goods was competitive between the two. BlueScope then compared the export MCC's for both exporters, per SEF 559:

MCC	HSG	Nam Kim
P2D41C	✓	✗
P2D51C	✗	✓
P2E51C	✓	✗
P2F21C	✓	✓
P2F31C	✓	✓
P2F41C	✓	✓
P2F51C	✓	✓

**Non-Confidential Table 5: Vietnamese Australian Export MCC's**

In summary:

- both HSG and Nam export goods with an aluminium zinc coating of 150 g/m<sup>2</sup> (i.e. AZ 150, within the MCC coating mass range of >100 g/m<sup>2</sup> - <165 g/m<sup>2</sup>) in both G300 and G550 steel grades;
- both exporters exported AZ 150 in the G300 grade in the one MCC thickness group;
- both exporters exported AZ 150 in the G550 grade in the same four MCC thickness groups; and
- HSG exported one G450 grade product in the one MCC thickness group.

The above clear consistencies across the export MCC range validates the notion of competitive pricing in the Australian market during the 2019/20 investigation period. The dumping margin disparity in the preliminary SEF 559 findings must therefore be contingent on disparate normal values in the Vietnamese home market.

It is understood that HSG and Nam Kim do not purposely manufacture "non-prime" product. Non-prime steel product originates from making product of a quality not meeting the market standard for prime (this may be due to substandard mechanical properties, sub-standard surface finish/appearance, incorrect dimensions to that ordered, etc).

An assessment of home market product groupings, as disclosed in HSG's and Nam Kim's EVR's, is such that:

- both produced and sold the <AZ100 g/m<sup>2</sup> coating product in the G550 steel grade in four MCC thickness groups;

<sup>14</sup> Refer [Ton Nam Kim - Top 2 Prestigious Building Material Exporters in 2020](#) (August 2021), and <https://tonnamkim.com/market-and-distribution-channels/?lang=en>

<sup>15</sup> Refer Confidential Attachment B-4.1 to BlueScope's application.

<sup>16</sup> Confidential Attachment B-4.1.



- Nam Kim produced and sold the <AZ100 coated product in G300 and G450 steel grades, in one MCC thickness group (0.50 – 0.75 millimetres);<sup>17</sup>
- both exporters produced and sold the AZ150 G550 steel grade (Nam Kim within three MCC thickness groups; HSG within one thickness group); and
- HSG also produced and sold the G450 grade in one thickness grouping, and other grades in three thickness groupings.

HSG and Nam Kim share product commonalities on the Vietnamese domestic market as they do on their Australian exports of the subject goods. Both export a similar range of products to Australia and share a common range of products produced and sold on their domestic market across the two metallic coating mass groupings.

In the current inquiry, the goods exported to Australia from HSG and Nam Kim shared a highly aligned product mix and very similar FOB export prices (BlueScope's Confidential Attachment B-4.1 to its application evidenced HSG's Australian FOB export price as being AU\$[XXX]/tonne, and Nam Kim's at AU\$[XXX]/tonne)<sup>18</sup> indicating that over the investigation period, the starkly different AD margins reported by the Commission must be attributed to vastly different selling prices within the domestic Vietnamese market.

It is also noted above that HSG and Nam Kim also share a highly aligned domestic sales product mix for their prime product sales over the investigation period. They both sell prime and non-prime goods on their domestic market, and that the MCC's of non-prime products for each producer reflect almost the same MCC's as that of their prime domestic sales.

In the highly competitive and price sensitive Vietnamese market for commodity type products like aluminium zinc coated steel, the disparity in AD margins of 16.5% between these two large manufacturers lacks commercial sensibility, and in reality, is extremely improbable.

Supporting this view is the concurrent investigation no. 558 (and its SEF 558 equivalent) into wide aluminium zinc alloy coated steel exported from Vietnam. The only difference between wide and narrow aluminium zinc alloy coated steel coil can be attributed to the final processing cost of slitting the wide coil into narrow coil. Again, in SEF 558, the Commission details an aligned MCC product mix between HSG and Nam Kim on the domestic Vietnamese market.

In investigation 558, however, a difference existed between HSG's and Nam Kim's average FOB export prices to the Australian market during the investigation period.<sup>19</sup> This difference has therefore resulted in markedly different preliminary dumping margin findings in SEF 558. In other words, SEF 558's dumping margins have been driven by export prices, given consistency in product type/mix on the home market and therefore consistency in normal values.

Again, the only product difference between investigation 558 and 559 is width. And while width differences have a bearing on price, it would not be considered so material to drive a step-change in Vietnamese market dynamics and a detraction away from consistency in normal value pricing (as confirmed in SEF 558), albeit for narrower goods.

HSG/Nam Kim Australian export prices are known to be very similar in the current inquiry, and SEF 558 has confirmed price alignments for the goods on the home market, yet the Commission has calculated vastly different preliminary dumping margins in SEF 559. BlueScope is of the firm view that Vietnamese exporters of the goods were dumping at well above de-minimums levels during the investigation period. BlueScope respectfully requests that the Commission critically reappraise the data and information that is responsible for such a disparate and commercially unreasoned AD margin outcome.

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<sup>17</sup> None of the <AZ100 products were exported to Australia during the investigation period.

<sup>18</sup> Confidential Attachment B-4.1.

<sup>19</sup> Refer BlueScope's Confidential Attachment B-4.1 to its application regarding investigation 558.

#### 4. Raw Material Costs – Vietnam

The Commission verified the Hot Rolled Coil (“HRC”) costs associated with the production of the goods for cooperating exporters. SEF 559 found that ...HRC represented a significant and broadly consistent proportion of the CTM of the goods,<sup>20</sup> depicted as follows:

Producer	Country	HRC as a percentage of total CTM
BlueScope	Australia	63%
HSG	Vietnam	95%
Nam Kim	Vietnam	81%

**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 Vietnamese HRC costs as a proportion of the zinc coated (galvanised) steel CTM was **88%**.<sup>21</sup> The Commission has also recently examined Vietnamese HRC costs as the proportional component of 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%**.<sup>22</sup> Thirdly, the Commission’s April 2021 SEF conclusion in Investigation No. 553 (painted steel strapping exported from Vietnam),<sup>23</sup> found that HRC represented **83%** of the CTM steel strapping goods.<sup>24</sup>

BlueScope submits that the HRC/CTM comparisons made in Review 521, 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 Nam Kim 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 5% remaining, when the same costs for Nam Kim represent 19%.

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

#### 5. Material Injury & Causation

The Commission concluded in SEF 559 that the Australian industry has experienced injury in the following forms:<sup>25</sup>

- reduced sales volume;
- price suppression;
- price depression;
- loss of profits; and
- reduced profitability.

<sup>20</sup> SEF 559, p. 120.

<sup>21</sup> SEF 521, p. 104.

<sup>22</sup> Investigation No. 550, Final Report, section 6.3.2, p. 43.

<sup>23</sup> Investigation No. 553, Dumping and Subsidisation of Painted Steel Strapping from China and Vietnam.

<sup>24</sup> SEF 553, p. 31.

<sup>25</sup> SEF 559, p. 54.



The Commission however has preliminarily determined that injury to the Australian industry from dumped and subsidised exports of the goods from China, and dumped goods from Vietnam, was negligible. BlueScope respectfully disagrees with this assessment and details its reasoning below.

## China

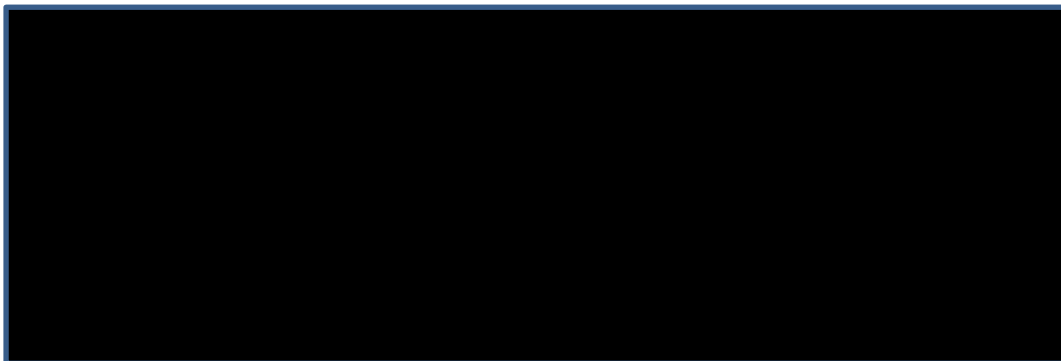
The Commission's SEF 559 volume-effect assessment for Chinese exports was that:<sup>26</sup>

*...the major source of exports from China was from an Australian importer who sourced the goods exclusively from the export market and, with regard to its imports from China, from one Chinese supplier. This importer was not a customer of BlueScope in the investigation period. Other than this importer, the commission observes that the remaining volumes from China are immaterial and unlikely to have an impact on either the market or on BlueScope's economic position.*

On a price-effect basis, SEF 559 concludes that Chinese prices undercut BlueScope's in the first two quarters of the investigation period, and that price depression and suppression was evident in the fourth quarter of the investigation period.<sup>27</sup> Yet the Commission considers that price injury on the above-noted 'remaining' Chinese volumes is negligible. BlueScope disagrees.

### Price Undercutting & Materiality

In its application, BlueScope provided two examples evidencing price depression injury. The first example provided the following conservative price injury estimate of AU\$[XXX]:<sup>28</sup>



The second example evidenced a further AU\$[XXX] net revenue impact, driven by the presence of dumped and subsidised Chinese import equivalents during the investigation period.

SEF 559 notes that the Commission is satisfied that both examples demonstrated price competition with dumped and subsidised imports of the goods, where BlueScope experienced downward pressure to its sales offering.<sup>29</sup> In terms of price injury materiality, BlueScope certainly does not consider the above immaterial, nor does it consider it immaterial in the context of the *Ministerial Direction on Material Injury 2012* ("Material Injury Direction") which stipulates that material injury is injury which is not immaterial, insubstantial, or insignificant.<sup>30</sup>

The Material Injury Direction also expressly governs the instance of where dumped and/or subsidised imports hold a small share of the Australian market:<sup>31</sup>

*I note that in cases where the dumped or subsidised imports hold a small share of the Australian market, it may be difficult to demonstrate material injury. I direct that no minimum standard should be*

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<sup>26</sup> SEF 559, p. 69.

<sup>27</sup> SEF 559, p. 71.

<sup>28</sup> BlueScope Commercial-In-Confidence application, p. 30.

<sup>29</sup> SEF 559, p. 64.

<sup>30</sup> ADN 2012/024.

<sup>31</sup> Ibid.

*used to determine whether dumped or subsidised imports have a sufficient share of the Australian market to cause material injury.*

SEF 559 states that China represented less than 2% of the Australian market during the investigation period. Applying the Material Injury Direction here, BlueScope asserts that no minimum standard should be considered by the Commission, and that the dumped and subsidised share held by Chinese exports was sufficient to cause material price injury. The principal mode of injury to BlueScope from China has been premised on price – Chinese price undercutting has had a detrimental financial impact despite the small share held. This would have been further substantiated had the Commission undertaken an MCC level price undercutting analysis (prevented as there were no cooperating Chinese exporters).<sup>32</sup> BlueScope submits that the absence of this analysis does not give leave for the Commission to conclude negligible injury in light of all relevant information before it indicating otherwise.

### Counterfactual Analysis

The Commission also needs to consider the counterfactual – if not for the evidenced Chinese price undercutting during the investigation period, what would have been BlueScope's realised selling prices and net revenues.

In relevant part, Article 3.2 of the *Anti-Dumping Agreement* (determination of injury) requires that:<sup>33</sup>

*With regard to the effect of the dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to **depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.** (emphasis added).*

In the above evidenced application examples, what would have otherwise occurred is such that BlueScope would not have reduced its price by [XX]% in the case of example 1, and would not have [commercial-in-confidence injury example details] of AU\$[XXX]/tonne – representing a [XX]% (necessary given the alternative dumped and subsidised Chinese supply channel) – in the case of example 2. BlueScope consider these to be significant movements (downwards) in price points and net revenues, across a not insignificant volume of sales of like goods. In considering the counterfactual, any price increases or rebate reductions of the same magnitude, which had been lost due to dumped and subsidised Chinese imports, would otherwise be considered significant to the Australian industry.

### Non-Cooperative Position

Annex II of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("ADA") states that if a party does not cooperate with an investigating authority, it could lead to a less favourable result for that party. The Commission's injury assessment for China is tenuous and refuted comprehensively above. BlueScope submits that even if Chinese exporters had cooperated, the Commission should nonetheless find causation. Yet there are no cooperative exporters in the current inquiry. Based on the ADA's guidance, and the arguments presented, the Commission should not afford China an unsubstantiated benefit of the doubt.

### **Vietnam**

In assessing injury on Vietnamese exports of the subject goods, SEF 559 finds that:<sup>34</sup>

- dumped Vietnamese imports represent less than 4% of the market for the goods;
- BlueScope competes directly with Vietnamese imports at an MCC level and dumped and un-dumped Vietnamese imports undercut BlueScope in every quarter of the inquiry period;

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<sup>32</sup> SEF 559, p. 71.

<sup>33</sup> WTO Analytical Index. *Anti-Dumping Agreement – Article 3* (Jurisprudence).

<sup>34</sup> SEF 559, p. 73.

- un-dumped Vietnamese imports generally undercut BlueScope to a greater degree and more frequently than dumped imports;
- BlueScope's prices do not appear to be closely aligned to the prices of dumped Vietnamese imports;
- there appears to be no causal link between dumped imports from Vietnam and any injury BlueScope may have experienced; and
- the impact from dumped Vietnamese imports on BlueScope's prices is considered negligible.

Respectfully, BlueScope disagrees with these preliminary conclusions and requests that the Commission revisit its position in light of the arguments presented below.

### Nam Kim Dumping Margin

The Commission considers that BlueScope was undercut from mostly un-dumped Vietnamese imports, particularly in the latter half of the investigation period. In other words, the Commission considers that BlueScope was primarily undercut by Nam Kim.

BlueScope has comprehensively refuted above the negative preliminary 7.2% dumping margin finding for Nam Kim. On the basis that a reassessed dumping margin for Nam Kim derives a positive above de-minimus outcome, BlueScope submits that the Commission would categorically determine that BlueScope was materially volume and price injured by all Vietnamese exporters during the investigation period.

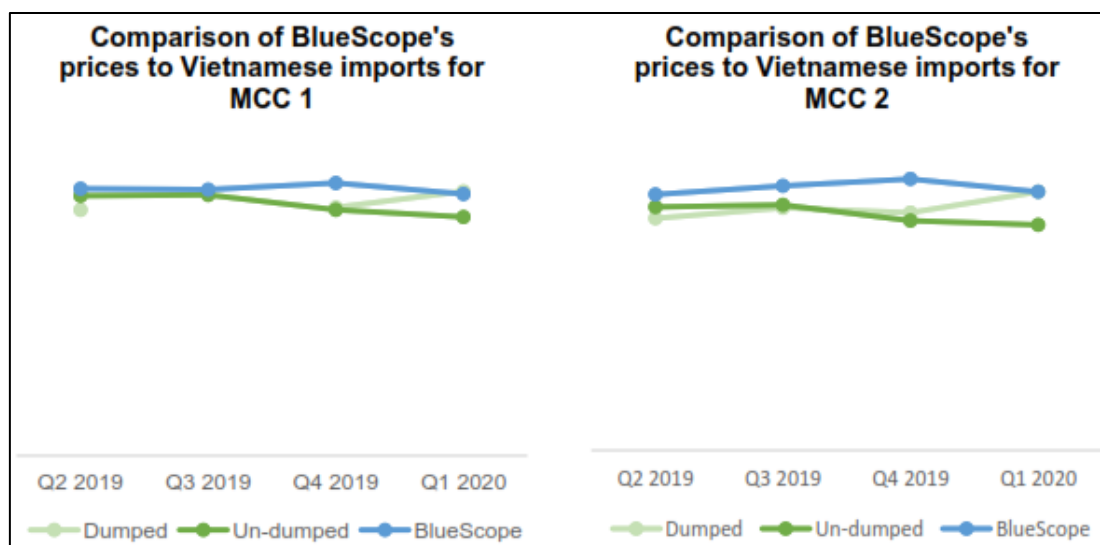
In an absence of this determination to date, BlueScope nonetheless addresses the findings in SEF 559 as presented, and argues against the preliminary conclusions.

### MCC-level Price Analysis

The Commission's price undercutting assessment in SEF 559 has been informed by its MCC-level price analysis of cooperative Vietnamese exporters. The Commission noted that:<sup>35</sup>

*...all of the import volumes from cooperating Vietnamese exporters compete against BlueScope at the MCC level. For the 2 largest MCCs sold by BlueScope (which constitute **59% of BlueScope's sales volume and 77% of verified Vietnamese imports**), the commission find[s] similar price trends. (emphasis added).*

Applying this quarterly over the investigation period, SEF 559 included the following figure ("Figure 16"):



Non-Confidential Chart 1 – SEF 559, Figure 16

<sup>35</sup> SEF 559, p. 74.

The relevant conclusion drawn here by the Commission was that BlueScope's unit pricing appeared more closely aligned with un-dumped Vietnamese (i.e. Nam Kim) imports than those of dumped (i.e. HSG and all other) imports.

Expanding this to BlueScope's top five MCC's (90% of BlueScope's sales volumes), SEF 559 depicts Table 20 as an examination of the degree of undercutting from the lowest price dumped and un-dumped Vietnamese exporters:

MCC	Q2 2019		Q3 2019		Q4 2019		Q1 2020	
	Source	%	Source	%	Source	%	Source	%
MCC 1	Dumped	8%	Un-dumped	2%	Un-dumped	9%	Un-dumped	9%
MCC 2	Dumped	9%	Dumped	8%	Un-dumped	15%	Un-dumped	13%
MCC 3	N/A	N/A	N/A	N/A	Un-dumped	10%	Dumped	14%
MCC 4	N/A	N/A	Dumped	21%	Un-dumped	20%	Un-dumped	20%

**Non-Confidential Table 6 – SEF 559, Table 20**

In the Commission's view, Table 20 evidenced BlueScope being mostly undercut by un-dumped imports, particularly in the latter half of the investigation period.

BlueScope makes the following observations in relation to the Figure 16 and Table 20 analysis:

- No meaningful conclusions should be drawn by the Commission from Figure 16. BlueScope's material injury from dumped Vietnamese imports was not confined to 59% of its sales volumes during the investigation period, nor were only 77% of Vietnamese volumes injurious. The Commission's sample size at this point is too small. And whilst the Commission has expended the analysis to five MCC's in Figure 20, Figure 16's inclusion in SEF 559 suggest a reliance on the outcomes depicted.

In any case, in BlueScope's view, the trend indicated in Figure 16 is not one more aligned to un-dumped imports. For MCC 1, the trend appears to be such that BlueScope's prices are similar to both dumped and un-dumped ones at the start of the investigation period, then diverge from un-dumped levels to align with dumped prices.<sup>36</sup> For MCC 2, BlueScope's prices diverge from un-dumped ones over 3 of the 4 quarters, then intersect with dumped prices at the end of the inquiry period.<sup>37</sup>

- Table 20 depicts only four MCC's of the top five. This makes validating the Commission's stipulated degrees of price undercutting difficult.
- What can be validated from Table 20 is that:
  - there were five instances of price undercutting from dumped goods, out of a total of thirteen (this excludes the N/A's), with undercutting ranging from 8% - 21%;
  - there were eight instances of undercutting from Nam Kim, ranging from 9% - 21%; and hence
  - notwithstanding the missing fifth MCC, BlueScope was price undercut and materially injured 38% of the time during the investigation period.

BlueScope therefore:

1. strenuously objects to a non-injury finding where the basis of such is predicated on only a 62% instance of un-dumped prices;
2. respectfully objects to a no-injury finding which is based whole, or in part, on a small sample assessment in the Commissions MCC-level price analysis;

<sup>36</sup> This is an important consideration as to whether dumping may continue, discussed later at heading 6.

<sup>37</sup> Ibid.

3. requests that the Commission reconsider, given its SEF 559 preliminary finding that dumped Vietnamese imports represent a small share of the Australian market, that injury was material (in accordance with the Ministerial Injury Direction); and
4. requests that the Commission consider the counterfactual, and WTO jurisprudence in relation thereto.

## 6. Whether Dumping May Continue

In order to publish a notice under sections 269TG(2) and/or 269TJ(2) the Minister<sup>38</sup> must be satisfied that, among other things, dumping and subsidisation may continue. In assessing whether dumping or subsidisation may continue, the Commission considers the term 'may' to mean 'possible'. The Commission also considers:

- prior evidence of dumping and/or subsidisation;
- whether the export price of like goods that may be exported to Australia in the future is less than the normal value of the goods; and
- whether material injury has been or is being caused, or is threatened.

SEF 559 is silent on whether dumping may continue (presumably based on the preliminary no-injury finding). BlueScope submits however the dumping has and will continue, and is a relevant consideration for the Commission in the current enquiry.

### BlueScope Assessment – Updated

In its submission of 27 May 2021,<sup>39</sup> BlueScope asserted that dumping had and will continue in the period following the investigation period, with consideration given to movements in dumping margins and domestic prices in the subject markets.<sup>40</sup> Detailed calculations were provided to the Commission at this stage, with BlueScope concluding that:<sup>41</sup>

*...China and Vietnam have continued to dump the subject goods post the investigation period for inquiry No. 559. Further, these margins are on an upward trajectory. The period-of-time that will have elapsed between the investigation period and the publication of the SEF will have afforded the Commission an opportunity to fully assess the post-POI margins and affirm the above trend.*

Confidential Attachment 1 details the post-POI dumping margins for the subject countries, extended from BlueScope's earlier analysis. The HRC feed cost component of the constructed normal values has increased over this period, resulting in an increase in prima facie home market prices during the 12 months ending August 2021. BlueScope therefore submits that dumping has continued post the inquiry period due to these continued high normal values.

This affirmative prima facie evidence of exporter price behaviours following the investigation period should lead the Commission to correctly conclude that it is highly possible that dumping will continue, and that the ongoing trade in the subject goods from China and Vietnam at non-negligible volumes has caused, and threatens to cause, material injury to the Australian industry.

### Circumvention & Injury Transfer

Section 3.2 above emphasised the subject goods product commonality with those in concurrent investigation 558, being width as the only discernible difference. Investigation 558 covers wide aluminium zinc coated steel imports from Korea, Taiwan, and Vietnam. The relevance for the current inquiry then, is Vietnam.

For Vietnamese exports of the goods, SEF 558 has preliminarily determined that Hoa Phat Steel Sheet Co., Ltd ("Hoa Phat") Hoa Sen, and all uncooperative exporters, were exporting to Australia at dumped prices

<sup>38</sup> Minister for Industry, Science and Technology.

<sup>39</sup> EPR Folio No. 17.

<sup>40</sup> Ibid, p. 1.

<sup>41</sup> Ibid.

(during the same inquiry period as investigation 559) and that this dumping caused material injury. SEF 558 therefore recommended the publication of a dumping duty notice in respect of Vietnamese exports of the goods. The Commission has also imposed preliminary duties in accordance with Anti-Dumping Notice No. 2021/123,<sup>42</sup> as follows:

Country	Exporter	Proposed duty method	Fixed rate of IDD (%)
Korea	KG Dongbu Steel Co., Ltd	Combination	2.5
	Dongkuk Steel Mill Co., Ltd	Combination	6.9
	Uncooperative exporters	Combination	13.7
Vietnam	Hoa Phat Steel Sheet Co., Ltd	Combination	5.5
	Hoa Sen Group Joint Stock Company	Combination	5.2
	Uncooperative exporters	Combination	13.1

**Non-Confidential Table 7 – ADN 2021/123 Preliminary Securities**

SEF 558 also addresses whether dumping from Korea, Taiwan, and Vietnam may continue, concluding that it would given the magnitude of the dumping margins found, the importance of price in the market, evidence of price undercutting, established links between suppliers and importers, and that exporters have maintained sales volumes to the Australian market.<sup>43</sup>

Wide aluminium zinc coated steel can be easily processed and substituted into narrow aluminium zinc steel. Slitting wide coil into its narrow equivalent is a fast, low capital and very low-cost procedure undertaken by all steel producers, either at the mill or at service centres, as the final process prior to sale. BlueScope estimates that the cost of slitting in the subject countries would represent less than AU\$[XX]/metric tonne.

BlueScope also requests that the Commission consider the rationale behind previous Australia trade remedy investigations on flat rolled steel products where BlueScope has been the applicant. [*Commercial-in-confidence applicant considerations*].

This now permits exporters with measures imposed on the wide goods to convert to narrow and continue to dump these goods (i.e. the slit wide product) onto the Australian market – a market that SEF 559 has recognised is growing.

BlueScope remains very concerned at the very real prospect of the circumvention of measures on wide goods through conversion to narrow into a growing segment of the Australian aluminium zinc alloy coated steel market. It is clear there exists the very high probability, should measures not be imposed against Vietnam in the current inquiry, that Vietnamese exporters of the goods subject to investigation 558 (under which interim dumping duties and floor prices are now likely to be imposed) will simply switch to the manufacture and export of narrow goods in seeking to circumvent those newly imposed on wide goods.

In BlueScope's view, this should be a critical consideration for the Commission. SEF 558 has comprehensively evidenced the injury caused by Vietnam to the Australian industry on wide aluminium zinc coated steel. The ease with which Vietnamese exporters (and consequently Australian end-user customers) can utilise the narrow goods as opposed to the wide will result in a transfer of material injury.

Circumvention by foreign exporters of metallic coated flat steel to the Australian market is not unprecedented. In March 2016, the Commission concluded that exporters of zinc coated (galvanised) steel from China, Korea, and Taiwan had slightly modified the goods in order to avoid the trade remedy measures imposed by the

<sup>42</sup> ADN 2021/123 – Preliminary Affirmative Decision – PAD 558. Electronic Public Record (“EPR”) Folio No. 58.

<sup>43</sup> SEF 558, p. 103.



Commission in August 2013.<sup>44</sup> The same conclusions were also reached, over a similar time period, for Hollow Structural Sections from China, Korea, and Malaysia.<sup>45</sup>

Circumvention of established trade remedy measures is a key concern for trade exposed Australian manufacturers. In its assessment of Australia's governing legislative frameworks of tariff circumvention, The House of Representatives *Inquiry into Australia's anti-circumvention framework in relation to anti-dumping measures* concluded that:<sup>46</sup>

*...the Committee recognises the rewards for circumventing anti-dumping actions are high and that those intent on circumvention have proved enormously resourceful and adaptable. It is for this reason the Committee believes all concerned, including the Committee, should keep a close watching brief on the situation.*

BlueScope highlights circumvention as the highly likely outcome should the Commission not impose interim dumping and countervailing measures in the current inquiry, causing ongoing material injury to the Australian industry.

## 7. Conclusion

BlueScope respectfully disagrees with the Commission's proposed recommendation to terminate the investigation into the dumping and subsidisation of aluminium zinc coated steel from China and Vietnam.

A measured re-assessment of the issues addressed by BlueScope in this submission will permit the Commissioner to conclude that the Australian industry has suffered material injury from dumped and subsidised exports of aluminium zinc coated steel to Australia from China and Vietnam, and that a Preliminary Affirmative Determination imposing provisional measures should be applied to prevent further material injury to the Australian industry.

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

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<sup>44</sup> Anti-Circumvention Inquiry 290/298. This circumvention activity sought to the measures imposed in investigation No. 190a.

<sup>45</sup> Anti-Circumvention Inquiry 291.

<sup>46</sup> *Circumvention: closing the loopholes*. Inquiry into Australia's anti-circumvention framework in relation to anti-dumping measures House of Representatives Standing Committee on Agriculture and Industry. May 2015.