



20 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 recent submission by BlueScope Steel Limited ("BlueScope"), in respect of the dumping investigation into aluminium zinc coated steel (<600mm) from Vietnam.

#### **Adjustment - Commission**

HSG has properly reported commissions paid to third parties for certain domestic sales. These are direct selling expenses which are necessary to ensure proper comparison of domestic sales with export sales, as per the Commission's stated guidelines<sup>1</sup>. Evidence submitted and verified by the Commission confirms that the Commission's are related to domestic sales of the subject goods and therefore warrant adjustment.

#### **Adjustment – Container Loading costs**

HSG has accurately reported all direct selling expenses relating to export sales. This includes all relevant loading expenses incurred by HSG.

#### **Raw material costs**

BlueScope's query of HSG raw material costs is without foundation. HSG has provided a complete and accurate reporting of its production costs. Those costs have been verified by the Commission, which were satisfied with the '*...completeness and relevance of the cost to make and sell (CTMS) information provided in the REQ by reconciling it to audited financial statements*'.

#### **Material Injury & Causation**

BlueScope's disagreement the Commission's finding that material injury caused by dumping was negligible, appears to rest entirely on its view that the Commission incorrectly determined exports by the Vietnamese exporter, Nam Kim, to be non-dumped. HSG is unable to comment on the dumping margin determined for Nam Kim.

However, the Commission cannot accept the statement by BlueScope that '*no meaningful conclusions should be drawn*' from the price undercutting analysis found during the investigation period. Price undercutting is the key factor relied on by BlueScope to support its application in the first place. It was also the basis for Commission's decision to initiate the investigation. It cannot now be simply ignored and given no weight, solely because the evidence now confirms that non-dumped exports were the primary cause of undercutting and any injurious effects that flowed from it.

Ignoring the undercutting evidence now would provide a clear example of the Commission not acting consistently with its obligations under Article 3.1 of the WTO Anti-Dumping Agreement, to base its determinations on "*positive evidence*" and "*objective examination*". This requirement is reflected in subsection 269TAE(2AA) of the *Customs Act 1901* ("the Act"), which requires that material injury

<sup>1</sup> ADC Dumping & Subsidy Manual, November 2018, page 78.

determinations ‘...must be based on facts and not merely on allegations, conjecture or remote possibilities.’

For this reason, BlueScope’s claims must be rejected.

### **Whether Dumping May Continue**

BlueScope refers to updated evidence which it argues demonstrates that exports from China and Vietnam have continued to be dumping subsequent to the end of the investigation period. It argues that such information is relevant to the Minister’s determination pursuant to subsection 269TG(2) of the Act. Whilst HSG refutes the suggestion of continued dumping, it is nevertheless an erroneous view as BlueScope appear to be only addressing one of the mandatory requirements of that provision.

Subsection 269TG(2) requires that for dumping duties be imposed pursuant to section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), the Minister must be satisfied that:

- a) subject exports during the investigation period were dumped, and future exports may continue to be dumped; **and**
- b) material injury has been or is being caused or threatened by the dumped goods.

Given the Commission’s finding that dumped exports did not cause material injury, the Minister’s power to declare that dumping duties be impose pursuant to section 8 of the Dumping Duty Act is not enlivened.

Therefore, any evidence of continued dumping is redundant given the material injury was not found to have been caused by dumping.

### **Circumvention & Injury Transfer**

BlueScope raises the potential for Vietnamese exporters to divert exports of wider (+600mm) aluminium zinc coated steel to narrower coils. It claims that this would involve a circumvention of measures. This is an outrageous claim that is unfounded and flawed.

It cannot be asserted that exporting narrower coil in the future is a form of circumvention given the narrower coil is a pre-existing product in its own right and was the subject of its own dumping investigation. There can be no suggestion that the narrower coil has been slightly modified before their export as these are the pre-existing goods that have been exported. Any increase in narrow coil is simply a reflection of the ‘growing segment’ of the Australian market, which is in large part driven by BlueScope’s promotion of its TRUECORE product.