

**NON – CONFIDENTIAL**

***Application for the continuation of a  
Dumping Duty Notice***

***ADN No. 2021/129***

**ATTACHMENT A  
Application for Continuation of a Dumping Duty Notice  
Hot Rolled Coil Steel exported from Taiwan**

***The application must include a detailed statement setting out reasons for seeking continuation of the anti-dumping measure. Applicants must provide evidence addressing whether, in the absence of measures, dumped or subsidised imports would cause material injury to the local industry producing like goods. Applicants should refer to the “Guidelines for Preparing an Application for Continuation of Measures” for assistance.***

- i. **Will the dumping or subsidisation continue, or recur?**
- **Anti-dumping actions by other countries**

**Overview**

According to the World Trade Organisation (“WTO”) *Integrated Trade Intelligence Portal*, a total of five anti-dumping measures are currently imposed by WTO member countries on HRC from Taiwan, as classified to the four-digit tariff subheadings for 7208 and 7211.<sup>1</sup>

**Major Jurisdictions**

***Anti-Dumping Measures – United States***

In the United States (“U.S.”), an anti-dumping (“AD”) order is currently imposed by the Department of Commerce (“DOC”) on HRC imports from Taiwan.

The original anti-dumping order was imposed on Taiwanese HRC exporters on 29 November 2001, levying duties of 29.14 % on China Steel Corporation, 29.14 % on An Feng Steel Co., Ltd. and 20.28% on all others. Subsequent sunset reviews were undertaken in 2006, 2012, and 2019. In each case, the U.S. Department of Commerce made specific findings that dumping was likely to recur if duties on Taiwan were removed.

In the most recent 2019 sunset review, the U.S. International Trade Commission (“ITC”) noted that:<sup>2</sup>

*According to a corporate representative, China Steel Corp. (“CSC”) “will look to sell its hot rolled coils to other markets” due to the fact that “we will have excess HRC {hot-rolled steel} and we will have to find other market then,” noting that the company is “unlikely to cut its HRC {hot-rolled steel} production and doing so will only be a last resort.*

As a result, the ITC found that:<sup>3</sup>

*According to GTA data, exports of hot-rolled steel from Taiwan increased during the current review period. In 2018, Vietnam was the top export destination for Taiwanese HRSP. HRSP from Taiwan are subject to antidumping duties in Australia, Indonesia, and Thailand.*

*In light of the foregoing, including substantial capacity and excess capacity of the subject industry, its export orientation, and the significant and growing volume of imports prior to imposition of the order, we*

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<sup>1</sup> Non-Confidential Attachment 1 – WTO Integrated Trade Intelligence Portal; HRC steel trade remedies against Taiwan (extract made 08/11/2021).

<sup>2</sup> Non-Confidential Attachment 2 – Hot-Rolled Steel Products from China, India, Indonesia, Taiwan, Thailand, and Ukraine Investigation Nos. 701-TA-405-406 and 408 and 731-TA-899-901 and 906-908 (Third Review). Publication 4942. August 2019. P. 96.

<sup>3</sup> Ibid, p. 23.

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*find that subject imports from Taiwan would not likely have no discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked.*

### **Anti-Dumping Measures – Thailand**

The Kingdom of Thailand has maintained anti-dumping measures against Taiwanese exports of HRC since 2003.

In its 22 May 2009 first sunset determination, the Thailand Department of Foreign Trade (“DFT”) determined that a cessation of duty collection on Taiwanese HRC imports would cause further dumping and material injury. The DFT consequently imposed ongoing trade remedy tariffs of 3.45 per cent against China Steel Corporation and Chung Hung Steel Corporation, and 25.15 per cent against all other Taiwanese exporters.<sup>4</sup>

In its 21 May 2015 second sunset review, the DFT continued to find that the cessation of dumping duties would result in future dumping in the Thailand HRC market, and injury to domestic producers. The DFT continued the trade measures against Taiwanese exporters for a further five-year period, at the above rates.<sup>5</sup>

In its 8 June 2021 third sunset determination, the DFT determined that it was appropriate to continue the trade measures against Taiwan given the global steel trading situation, the epidemic of COVID-19 affecting the global economy and Thailand specifically, and taking into overall account the interests of the internal HRC-producing industry, Thailand steel consumers, and the public interest.<sup>6</sup>

### **Other Trade Defence Mechanisms**

In 2018, the U.S. imposed a 25% tariff on a wide range of steel imports, including HRC, on national security grounds (“Section 232”). Taiwan is not excluded from the measure.

The U.S. has historically been a large export market for HRC steel products and has been directly impacted by the U.S. Section 232. The effect of the U.S. Section 232 action reducing imports of HRC steel into the U.S. from Taiwan has been profound, as highlighted by the U.S. Steel Import Monitoring data service ‘SIMA’. An extract from SIMA below shows that Taiwanese exports of HRC coil and sheet have fallen dramatically, from a high of 83.4 thousand tonnes just prior to the imposition of the s232, to just 4.8 thousand tonnes for the first 8 months of 2021:<sup>7</sup>

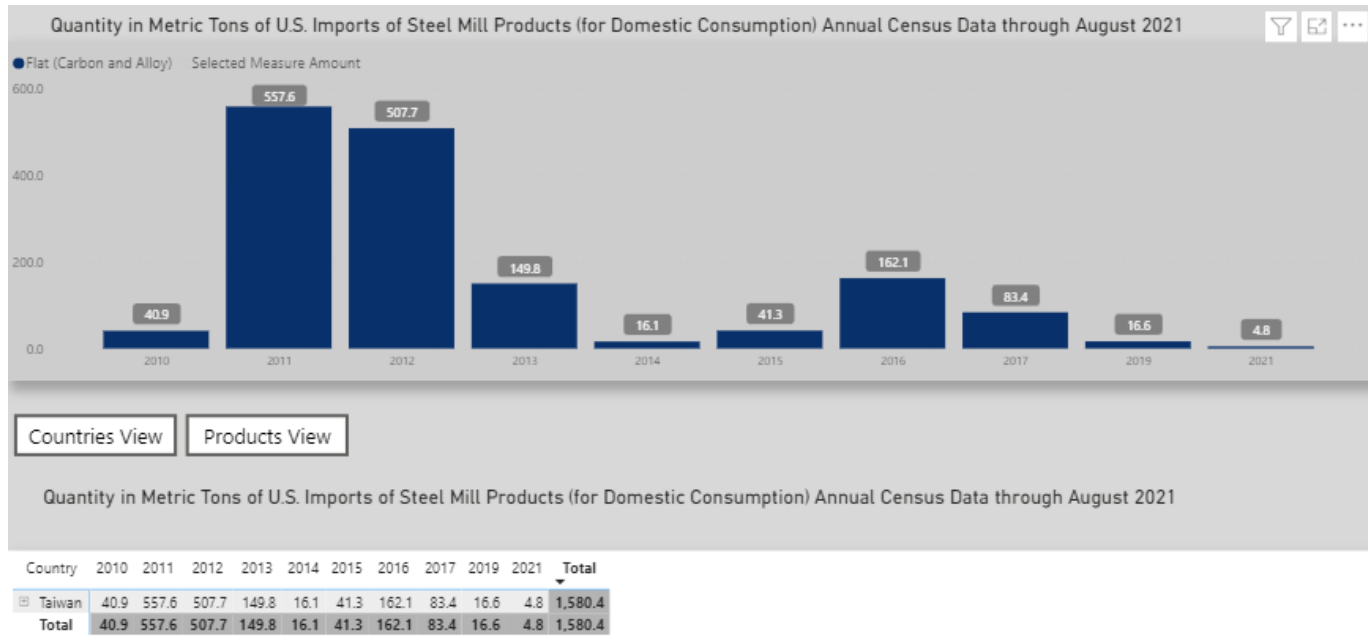
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<sup>4</sup> Confidential Attachment 3 – Thailand Department of Foreign Trade, HRC Sunset Review 2009 determination.

<sup>5</sup> Confidential Attachment 4 – Thailand Department of Foreign Trade, HRC Sunset Review 2015 determination.

<sup>6</sup> Confidential Attachment 5 – Thailand Department of Foreign Trade, HRC Sunset Review 2021 determination.

<sup>7</sup> <https://www.trade.gov/data-visualization/us-steel-import-monitor>



The significant loss of HRC export volumes to the U.S. has meant that Taiwanese producers have excess capacity to export goods to open economies, such as the Australian market.

On 24 June 2021, the European Union (“EU”) extended its safeguard measure on the importation of certain steel products.<sup>8</sup> The measures are imposed on 26 steel products imported into the EU, and will remain in place until 30 June 2024, with quota volumes for the products increasing by 3% year-on-year. Where quota volumes are exceeded, an additional 25% duty is levied.<sup>9</sup>

The extended steel safeguard includes those tariff subheadings covering the EU importation of HRC, including assigning quota volumes for Taiwan (within the ‘Other countries’ category).<sup>10</sup>

On 11 June 2021, the United Kingdom’s (“UK”) Trade Remedies Authority (“TRA”) released its final recommendations on the UK steel safeguard measure. The TRA will impose tariff rate quotas on 10 steel product categories until 30 June 2024. These quota volumes will increase 3% annually. HRC is included within the safeguard under *Product Number 1*.<sup>11</sup>

- **Current normal values in the exporting countries**

In HRC Review 528, the Commission determined that the variable factors for Taiwan had changed from earlier Review 454, and imposed the following revised interim dumping (“IDD”) duties:<sup>12</sup>

<sup>8</sup> Non-Confidential Attachment 6 – Commission Implementation Regulation (EU) 2021/129 of 24 June 2021; amending Commission Implementation Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid, p. 29.

<sup>11</sup> Non-Confidential Attachment 7 – Statement of Intended Preliminary Decision; Transition Review TF0006 – Safeguard measures on certain steel product. May 19, 2021.

<sup>12</sup> Review 528 Final Report, p. 35.

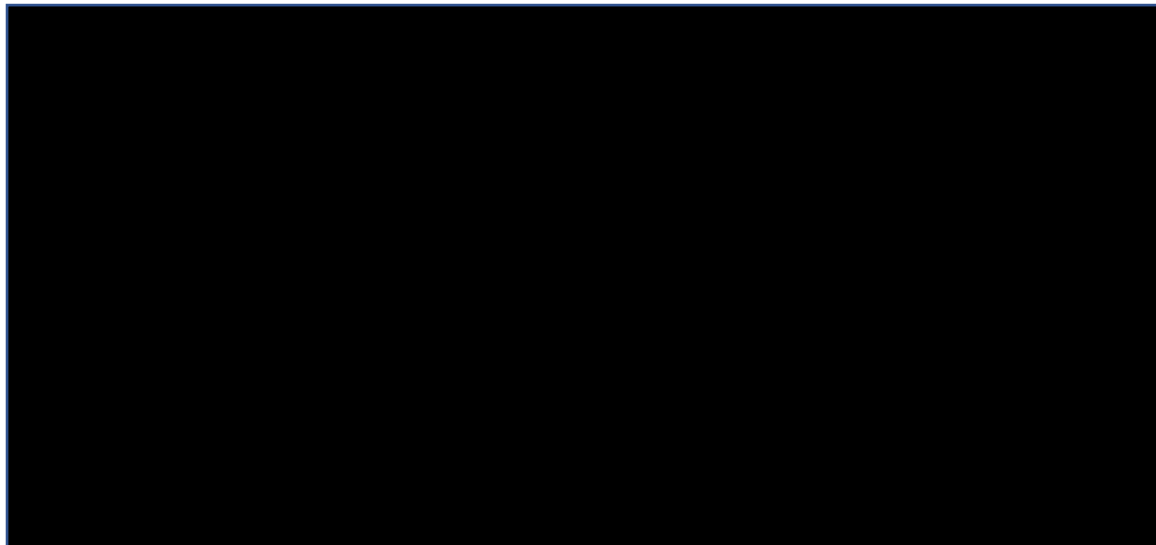
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Country	Exporter	Effective rate of duty	Variable (basis of floor price component)
Taiwan	China Steel Corporation	0%	The lower of ANV and NIP
	Chung Hung Steel Corporation	0%	The lower of ANV and NIP
	Shang Chen Steel Co., Ltd	0%	The lower of ANV and NIP
	Uncooperative and all other exporters	0%	The lower of ANV and NIP

In the determination of new normal values for a likely continuation inquiry period ending 30 September 2021, BlueScope has assessed Taiwanese HRC home market prices from [commercial-in-confidence data source]. Commencing the period following Review 528, monthly prices can be represented as follows:



Confidential Chart 1 – HRC Normal Value; Taiwan

BlueScope refers the Commission to Confidential Attachment 8 for full details.

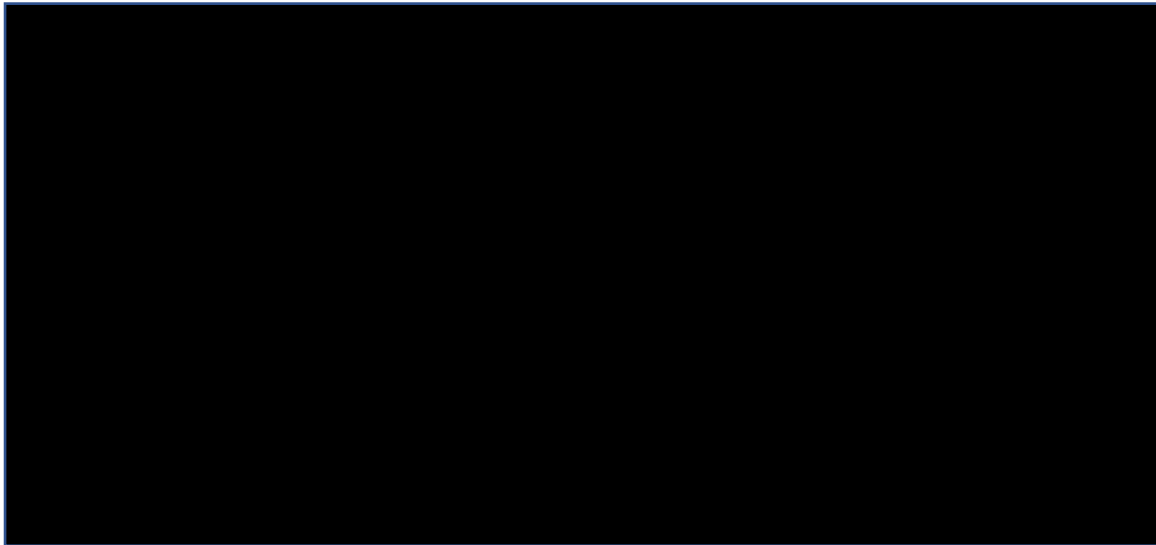
▪ **Whether exports have continued post the imposition of measures, and estimates of export price**

HRC exports from Taiwan have continued post the imposition of measures. BlueScope provides at Confidential Appendix A-2 (and Confidential Attachment 8) an estimate of this volume and consequent export price for the proposed continuation inquiry period.<sup>13</sup>

For the twelve months ending August 2021<sup>14</sup> Taiwanese HRC Australian export prices, when compared to equivalent home market normal values, are above de-minimus margins of dumping:

<sup>13</sup> Import data has been sourced from [commercial-in-confidence data source].

<sup>14</sup> Import data sourced from ISSB [commercial-in-confidence data source] for September 2021 was incomplete at the time of this application.



**Confidential Chart 2 – Sept. 2020- Aug. 2021 Taiwan HRC Export Prices and Dumping Margins**

Over the likely continuation inquiry period, the above represents a weighted average positive dumping margin of [XX] per cent.

In Review 529 (for an investigation period ending September 2019), the Commission applied IDD's to Taiwanese HRC exporters as the lower of the Ascertained Normal Value and the Non-Injurious Price on the basis that the actual dumping margins found during the review were negative. ADN 2020/092 disclosed:<sup>15</sup>

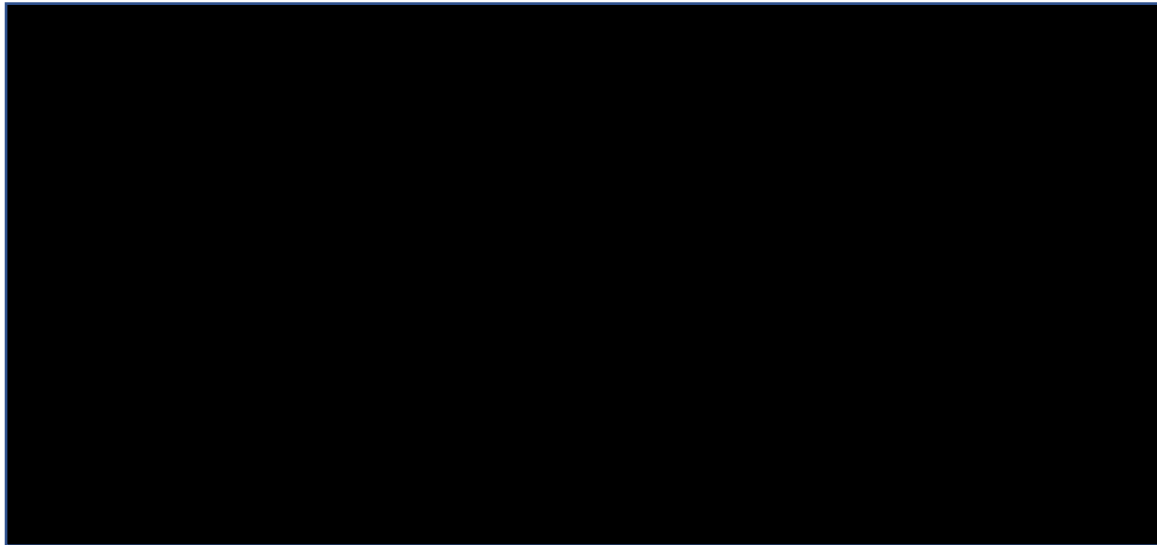
- a negative 5.0% dumping margin for China Steel Corporation;
- a negative 8.9% dumping margin for Chung Hung Steel Corporation;
- a negative 3.2% dumping margin for Shang Chen Steel Co. Ltd; and
- a negative 0.2% dumping margin for uncooperative and all other exporters.

Using a calculation methodology that replicates the above negative dumping margin findings from Review 528, BlueScope can now demonstrate on a prima facie basis that negative dumping has been replaced by positive dumping:<sup>16</sup>

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<sup>15</sup> Anti-Dumping Notice No. 2020/092. Hot rolled coil exported from Taiwan; Findings in relation to a Review of anti-dumping measures.

<sup>16</sup> Confidential Attachment 8.



**Confidential Chart 3 – Sept. 2020 - Aug. 2021 Taiwan HRC Export Prices and Dumping Margins**

Taiwanese dumping of HRC onto the Australian market has recurred since Review 528. The margin of dumping has widened over the likely new continuation inquiry period. BlueScope's prima facie methodology aligns with that of the Commission's at a high level and is therefore indicative of what the Commission will find in the new inquiry. BlueScope therefore submits, in the absence of measures, that it is highly probable that dumping will continue.

▪ **Whether exporters have maintained distribution links in Australia**

The existence of ongoing Taiwanese HRC export trade to the Australian market indicates the presence of well-utilised distribution links. The continued export activity via these established export pathways presents an opportunity for Taiwanese exporters to quickly increase sales volume of dumped HRC steel if the measures are removed.

In Review 528, the Commission identified several importers in the ABF import database that imported the goods from Taiwan during the review period. The Commission forwarded importer questionnaires to the major importers and received two completed responses. Those respondents accounted for approximately 97 per cent (by volume) of all goods imported from Taiwan during this earlier review period.<sup>17</sup>

From Review 528, BlueScope understands that:

- China Steel Corporation maintains an export supply channel with the Australian importer *C.A. Steel Products* (and other Australian importers not named by the Commission);<sup>18</sup> and
- Shang Chen Steel Co. Ltd maintains an export supply channel with the Australian importer *Macsteel International Australia Pty Ltd* (and other Australian importers not named by the Commission).<sup>19</sup>

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<sup>17</sup> Review 528, Final Report, p. 15.

<sup>18</sup> Review 528, EPR Folio No. 20.

<sup>19</sup> Review 528, EPR Folio No. 9.

- **Whether exporters retain excess capacity for direction to Australia**

Summary

Taiwanese HRC producers have the capacity to export a substantial volume of subject goods to the Australian market in the event of the expiration of the measures. Subject producers maintain extensive production capacity, and they have the means and motive to export substantial volumes of HRC to Australia. Given the attractiveness of the Australian market, they would not hesitate to do so without the discipline of the measures.

HRC Continuation Inquiry 400

In the first five-year review (“Continuation 400”),<sup>20</sup> the Commission established that:<sup>21</sup>

*...the cooperating exporters all have spare production capacity for HRC, albeit varying from exporter to exporter. The Commission observes that the spare capacity available to the five cooperating exporters from Korea and Taiwan during the inquiry period was **in excess of the entire Australian market.***

*The Commission has also analysed the broader conditions affecting steel markets in the subject countries, which suggests that spare capacity will remain a feature of the Asian steel market generally (and the subject countries) for the foreseeable future. (emphasis added).*

Three of the five above-noted cooperating Korean and Taiwanese exporters were Taiwanese (China Steel Corporation, Chung Hung Steel Corporation, and Shang Chen Steel Co. Ltd), highlighting relevantly that at the time of Continuation 400 the excess capacity of Taiwanese exporters was at least the same as that of the Australian market. Given this large amount of available capacity, which BlueScope asserts will not have materially altered since Continuation 400, Taiwanese HRC producers will certainly seek to ship large and growing volumes of HRC steel to the Australian market if the measures are discontinued. Taiwanese producers continue to have strong incentives to operate their facilities at high-capacity utilization levels, as doing lowers per-unit costs. These circumstances, plus the attractiveness of the Australian market, creates significant incentives for subject goods producers to manufacture significant amounts of dumped HRC for export to Australia.

BlueScope agrees with (and further critiques below) the Commission’s assessment that spare capacity has remained a feature of the Asian steel market generally and will continue dominating the steel landscape for the foreseeable future.

Global Capacity Developments

An analysis of excess capacity in the subject goods industry requires consideration of both overcapacity in the industry specifically, and the steel industry more generally.

The Organisation of Economic Cooperation and Development (“OECD”) has noted that whilst global steel-making capacity (in nominal terms) decreased from 2015 to 2018, latest available information suggests that capacity has been increasing for the first time since 2014.<sup>22</sup> In addition, recent steel investment project announcements suggests that global gross steel capacity is currently expanding by 17.3 million tonnes, with a further 26.63 million tonnes in the planning stages.<sup>23</sup> Fully implemented, this would add approximately 44 million metric tonnes of new global steel-making capacity within the next three years.<sup>24</sup>

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<sup>20</sup> With the period of investigation being 1 January 2016 – 31 December 2016.

<sup>21</sup> Continuation 400, Final Report, p. 46.

<sup>22</sup> Non-Confidential Attachment 9 – *OECD Latest Development in Steel Making Capacity, 2020*. P. 9 (2.1.1 Global Summary).

<sup>23</sup> Non-Confidential Attachment 10 – *Extending the EU Safeguard; Key Elements* (February 2021, p. 1).

<sup>24</sup> *Ibid.*

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The Commission's Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission<sup>25</sup> found that ongoing excess capacity is a significant challenge for the global steel industry, particularly in Asia. In relevant part:

*Excess capacity – a problem that afflicts the steel industry – is a significant issue for the sector. The growing gap between global steelmaking capacity and demand has led to deterioration in the financial situation of steelmakers, and raised concerns about the longer-term economic viability and efficiency of the industry.*

The tipping point in global steel excess capacity was recognised by the OECD in April 2016. It noted that excess capacity is the biggest challenge facing the steel industry:

*Excess steelmaking capacity – a global challenge that continues to grow – is creating significant difficulties for steel producers in advanced, emerging and developing economies alike. Low steel prices, weak profitability, trade disturbances in some jurisdictions, and an escalation of trade actions against steel imports are some of the immediate impacts of excess capacity that are being felt by steel manufacturers around the world. These effects are pronounced due to the weakness of global steel markets and sluggish growth prospects. Alleviating excess capacity would lead to improved and more stable business conditions, and allow the industry to face a number of long-term challenges more effectively.<sup>26</sup>*

At the March 2018 OECD Steel Committee meeting, it was further noted that:<sup>27</sup>

*New investment projects continue to take place around the world and global steelmaking capacity could increase by 2.0% between 2018 and 2020 in the absence of any further closures. Global excess capacity is expected to continue to be a major challenge for the global steel industry—calling for urgent, accelerated actions to reduce it. Economies at the heart of the increase in capacity have an important role in this regard, and those increasing capacity should do so strictly in line with demand to avoid an exacerbation of the problem.*

In March 2019, the OECD Steel Committee again "...expressed concerns about the low growth prospects for the global economy and global steel markets, noting that decelerating demand growth and virtually unchanged steelmaking capacity result in a persistence of severe excess capacity in the steel sector."<sup>28</sup>

On 25 November 2019 the South East Asian Iron and Steel Institute ("SEAISI") highlighted that the ASEAN region is slated to significantly increase its overall steelmaking capacity.<sup>29</sup> SEAISI forecasts an alarming increase across the region from the current existing capacity of 83.7 million metric tonnes, to 144.2 million metric tonnes.<sup>30</sup> This will be driven primarily by Chinese investment,<sup>31</sup> the steel industry of which is not impartial to ignoring the economic and fiscal impacts of unmitigated steel manufacture.

HRC Capacity Implications

BlueScope contends that overcapacity in the global steel market generally has an impact on the subject goods specifically. Such global excess capacity leads to excess capacity and low prices for the subject goods. It is highly

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<sup>25</sup> <https://www.industry.gov.au/data-and-publications/analysis-of-steel-and-aluminium-markets>

<sup>26</sup> OECD, High-Level Meeting, Excess Capacity and Structural Adjustment in the Steel Sector: Background Note No. 2: "Capacity Developments in the World Steel Industry" (April 18, 2016) at p. 2.

<sup>27</sup> OECD, "Statement by Lieven Top, Chair of the OECD Steel Committee", 84th Session of the OECD Steel Committee, (5-6 March 2018).

<sup>28</sup> OECD, "Statement by Mr Jai Motwane, Vice Chairman of the OECD Steel Committee", 86th Session of the OECD Steel Committee, (25-26 March 2019).

<sup>29</sup> Confidential Attachment 11.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.



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likely then that this global oversupply translates to a displacement of export volumes to open markets, making Australia an attractive destination for dumped and injurious excess HRC steel.

Confidential Appendix A2 evidences the ongoing trade of the subject goods into the Australian market, and by extension the excess Taiwanese capacity that drives it.

BlueScope asserts that HRC steel excess capacity in the Taiwan has not lessened to any extent since the Continuation 400 findings. This excess capacity, over and above domestic demand, has meant that producers will seek to offload excess production by exporting HRC to Australia at dumped and injurious levels.

The current annual capacities of the main Taiwanese HRC producers are as follows:

<b>Producer</b>	<b>HRC Steel Capacity (MT)</b>
China Steel Corp.	7,860,000 <sup>32</sup>
Chung Hung Steel Corp.	2,600,000 <sup>33</sup>
Shang Chen Steel Co., Ltd.	2,000,000 <sup>34</sup>
Dragon Steel	4,000,000 <sup>35</sup>
<b>Total</b>	<b>16,460,000</b>

**Non-Confidential Table 1 – Taiwan HRC Production Capacities**

In Appendix A-2, BlueScope has estimated the size of the Australian market to be approximately [XXX] thousand tonnes for the twelve months ending September 2021. This market size represents only [XX] per cent of the capacity of HRC exporters from Taiwan.

BlueScope submits that, in the absence of effective trade measures, current high-volume exporters will grow their presence in the Australian market at dumped and injurious prices, and new Taiwanese market participants will emerge.

**ii. Will material injury recur?**

**▪ Volume and value of imports, and sources of imports**

BlueScope has provided Confidential Appendix A-2 with this application, which evidences that Taiwan is the largest volume exporter of HRC to Australia at the lowest price.

**▪ Sales and market shares of all suppliers**

BlueScope has referenced ISSB HRC steel export statistics in estimating sales volumes, values, and consequent market shares for the both Taiwan and non-subject countries in Confidential Appendix A2.

**▪ Performance of the local industry (profits, price trends, investment and employment)**

BlueScope has provided Confidential Appendix A-6 and Confidential Appendix A-7 as part of this application.

<sup>32</sup> Non-Confidential Attachment 12 – Taiwan HRC Capacities. Refer also [https://www.csc.com.tw/csc\\_e/pd/pd.html#](https://www.csc.com.tw/csc_e/pd/pd.html#)

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Non-Confidential Attachment 13 – Dragon Steel HRC Capacity.

- **Likelihood of material injury in the absence of anti-dumping measures**

### **Summary**

BlueScope submits that in the event the anti-dumping measures applicable to HRC exports from Taiwan are allowed to expire on 20 December 2022, the Australian industry will suffer, and be threatened with a recurrence of, material injury that the measures are intended to prevent.

### **The Likely Volume of Imports Would be Significant**

In evaluating the likely effects of subject imports, the Commission looks to assess whether the likely volume of the subject merchandise would be significant if the measures were to expire. The Commission also considers all economic factors relevant to the inquiry in making this assessment, such as production capacities (and existing unused capacity), market size and share, and changes in the structure and operation of the market since the measures were imposed.<sup>36</sup> Another important factor that the Commission has consider in past reviews and should again consider here is the extent to which subject producers are export-oriented. As shown below and above, taken together, these factors indicate that the likely volume of HRC exports from Taiwan would be significant if the measures lapse.

### **Continuation 400**

The Commission found that Taiwanese HRC exporters had gained a substantial proportion of the Australian import market following the original imposition of measures in Investigation 188, and that three of the cooperating Taiwanese exporters had significant excess capacity during the inquiry period.<sup>37</sup> The salient points of the Commission's analysis of the Taiwanese steel market was such that:<sup>38</sup>

- Taiwan exported crude steel to more than 170 countries, making it the world's 12<sup>th</sup> largest exporter of crude steel;
- Taiwan became a net exporter of steel in 2006, with a steel surplus in 2016 of 4.3 million metric tonnes;
- since 2012, Taiwan's steel exports have consistently remained above fifty per cent of its total production;
- Australia was one of the top 10 importers of steel from Taiwan, with four per cent of total steel exports destined for Australia; and
- despite 37 trade remedy sanctions in place at the time, Taiwan's percentage of exports consistently remained above fifty per cent, suggesting that Taiwanese steel exporters rely heavily on foreign markets.

The Commission's forward view in Continuation 400 was such that, in the absence of ongoing measures, Taiwanese exporters would likely dump in order to win additional market share and improve their own broader economic performance. In other words, Taiwanese HRC exporters would use "...the additional demand [in the absence of measures] to soak up excess capacity and improve the exporters' overall recovery of the cost of production."<sup>39</sup>

### **Current Inquiry**

As evidenced in Confidential Appendix A2, Taiwan was the highest volume exporter of HRC during the proposed continuation period ending September 2021. In the three years prior, Taiwan was also the largest volume exporter. Taiwanese HRC producers have the capacity to export a substantial volume of subject merchandise to the Australian market whilst under Australia trade remedy measures, let alone in their absence.

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<sup>36</sup> Dumping and Subsidy Manual, November 2018, p. 176.

<sup>37</sup> Continuation 400, Final Report, p. 53.

<sup>38</sup> Ibid, p. 68.

<sup>39</sup> Ibid.

In updating the Commission's Taiwanese steel market analysis from Continuation 400, BlueScope notes:<sup>40</sup>

- Taiwan exports steel to more than 130 countries, now making it the world's 13<sup>th</sup> largest steel exporter;
- Taiwan is still a net exporter of steel, with a steel surplus in 2018 of 4.55 million metric tonnes;
- Australia is still one of the top 10 importers of steel from Taiwan, with four per cent of Taiwan's total steel exports; and
- the number of trade remedy sanctions have increased, to 41. With Taiwan's percentage of steel exports still above fifty per cent (52.6 per cent in 2018), it continues to suggest that Taiwanese steel exporters heavily depend on foreign markets.

The above contemporary volume-related evidence is even more convincing than that on which the Commission relied upon in Continuation 400 to secure the continuation of HRC measures against Taiwan. No other conclusion is thus warranted in this regard other than for the Commission to extend the measures beyond December 2022.

As evidenced above, subject producers maintain extensive production capacity, and have the means, existing supply channels, and motive to export substantial volumes of HRC to Australia. Given the attractiveness of the Australian market, they would not hesitate to do so without the discipline of the measures.

#### **The Likely Price Effects Would be Significant**

In considering the likely price effects of subject imports, the Commission considers whether there is likely to be significant underselling by the subject imports, and whether the subject imports are likely to enter the Australian market at prices that otherwise would have a significant depressing or suppressing effect on domestic like product prices. In this continuation review, the evidence relating to these factors demonstrates that the likely price effects of subject HRC imports on the domestic like product would be significant.

#### **Original Investigation – Investigation 188**

The Commission's consideration of its injury determinations in the original investigation, reflecting the industry's condition prior to the imposition of measures, is important because that period was the most recent time during which imports of Taiwanese subject merchandise competed in the Australian market free of the discipline of interim dumping duties.

Investigation 188, with an inquiry period ending March 2012 and an injury assessment period spanning 2008 – 2012, found that the Australian industry had suffered material injury, and that there was a causal link between the material injury experienced and the dumped goods imported from Taiwan. The then Customs and Border Protection found that due to the dumped imports, BlueScope suffered injury in the form of price suppression and depression, lost revenue, and lost profits and profitability.<sup>41</sup>

The then Customs and Border Protection found that the Australian industry suffered injury during the investigation period that coincided with exports of dumped HRC from Taiwan, and that this had resulted in significant losses during the 2011-12 investigation period.<sup>42</sup> Conclusively:<sup>43</sup>

*Customs and Border Protection considers that dumped imports directly led to BlueScope's prices being suppressed. Given BlueScope's approach to setting an import parity price plus a premium above imports, it is reasonable to expect that but for the dumped imports, BlueScope's prices would have been higher by at least the margin of dumping. The nature of the steel and hot rolled products is that products of the same specification from different sources are generally interchangeable. As a result, the market is extremely price sensitive and price is one of the primary factors effecting purchasing decisions. Had*

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<sup>40</sup>International Trade Administration (May 2019); Steel Export Report: Taiwan.

<sup>41</sup> Investigation 188, Final Report, p. 40.

<sup>42</sup> Ibid, p. 50.

<sup>43</sup> Ibid, p. 57.

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*BlueScope not set its price according to import parity, it would have lost sales to imports. Therefore, Customs and Border Protection considers that the industry has suffered injury... as a result of dumped imports.*

**Continuation 400**

The Commission found that a significant portion of Taiwanese HRC exports during the inquiry period, when sold in the contested Australian market, undercut the prices obtained by the Australian industry. Such price undercutting was observed by the Commission to be aligned with the trade measure levels applicable to Taiwan at the time (i.e. the ascertained export price).<sup>44</sup> Conclusively:<sup>45</sup>

*...the Commission considers that it is likely the future exports of HRC from Taiwan would be dumped on the Australian market in the absence of the current measures. Further, the Commission considers it likely that the dumping of HRC exported from Taiwan would place downwards pressure on prices in the market, and that BlueScope would respond by reducing its own prices in order to maintain its market share. Noting the economic condition of the Australian industry and its present vulnerability, the Commission considers it likely that material injury would be experienced by BlueScope as a result of the dumping of HRC exported from Taiwan.*

The Commission's forward view in Continuation 400 was that the Australian industry would likely come under significant price pressure from HRC exported from Taiwan, and that injury to the Australian industry that continued or recurred from dumping, if the measures were removed, was likely to be material.<sup>46</sup>

**Current Inquiry**

Given the substitutability of the domestic like product and subject imports and price-based competition for HRC in the Australian market, if the measures expire, a significant volume of dumped HRC from Taiwan would again substantially undersell the domestic like product to gain market share. In turn, this would depress and suppress domestic like product prices to a significant degree.

As evidenced in Confidential Appendix A2, Taiwan was the lowest priced exporter of HRC during the proposed continuation period ending September 2021. In the three years prior, Taiwan ranked amongst the lowest priced as compared to China and South Korea, as the other material volume exporters. In earlier inquiries, the Commission has determined that Taiwanese producers export HRC to Australia at, or very close to, their respective ascertained export prices. BlueScope has evidenced above that Taiwanese exporters have recommenced dumping, whilst under measures. Any discontinuation of measures will result in still lower Taiwanese prices, higher margins of dumping and consequent material injury to the Australian industry as exporters seek to gain greater market share.

The Australian market for HRC steel remains highly price sensitive as a result of the substitutable nature of the domestic like product and subject merchandise. Expiration of the measures would likely lead to a recurrence of injury to the domestic industry by negatively impacting both sales and prices.

Without the discipline of trade relief, unfairly traded HRC imports would again be free to re-enter the Australian market unrestrained, and they would regain market share through underselling. This would suppress and depress prices, causing subject imports to adversely affect the profitability and stability of the domestic industry, just as they did prior to the imposition of the measures.

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<sup>44</sup> Ibid.

<sup>45</sup> Ibid, p. 54.

<sup>46</sup> Continuation 400, Final Report, p. 54.

**Contemporary Foreign Jurisdictional Considerations**

Trade actions and similar measures in other jurisdictions that affect Taiwan are relevant as to the likelihood of dumping and material injury continuing or recurring.

**United States**

BlueScope has outlined above the trade measures imposed by the U.S. on subject goods exports to that market from Taiwan.

**EU & UK – Steel Safeguard Measures Imposed**

As noted above, HRC has been included in the recently extended EU safeguard on certain steel products. In affirming the extension, the EU concluded:<sup>47</sup>

*...the Commission found that the Union steel industry, after the first three years of the safeguard measure, still finds itself in a fragile economic situation.*

*The Commission also found that imports from the main steel exporting countries have exerted and **still continue exerting very high import pressure** on the Union's steel market, with **an aggressive and opportunistic pattern of commercial behaviour, that is to say, using any margin to increase market presence.***

*Furthermore, given the prevailing downward trends in worldwide exports and domestic consumption by the main steel exporting countries over the period considered, which were already underway prior to the COVID-19 pandemic, **and in an overall context of significant overcapacity, the Commission then noted that exporters are in need to increase their sales on any possible market to continue operating.***

*The investigation also confirmed that other significant steel markets, including the second largest importing country, the US, continue having **trade restrictions** in place **affecting the ability of exporting countries to sell thereto**, in a general context of continuous decline in steel consumption.*

*The investigation further confirmed that the Union market is comparatively more attractive for imports in terms of size and price levels, thereby becoming a market where large volumes of steel could be directed.*

*...at this moment [there is] a high likelihood that very substantial volumes of steel unsold in other parts of the world could end up being directed towards in the Union market.*

*These additional imports, together with the currently existing ones, would overall lead to a **very serious further deterioration of the economic situation** of the Union industry, and could seriously endanger its viability. It is therefore established that the lapsing of the safeguard measure would result in serious injury to the Union industry caused by increased imports.*

*The Commission concluded that such increased volumes could undermine significantly any meaningful economic recovery and the efforts being made by the Union steel industry in its process of adjustment to a higher level of imports, which are described in the following section. Therefore, the Commission considered that the safeguard measure continues to be necessary to prevent serious injury. (**emphasis added**).*

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<sup>47</sup> Non-Confidential Attachment 6 – Commission Implementation Regulation (EU) 2021/129 of 24 June 2021; amending Commission Implementation Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products. P. 14.

In its conclusion on the likelihood of future serious injury to UK steel producers, the TRA's safeguard determination noted that:

*...the UK industry remains in a fragile position and could be vulnerable to a future surge in imports.*

...

*We have considered whether this serious injury would be likely to recur, taking into account the broad range and large number of different products affected and the proportion of UK industry affected. We also noted that the European Commission's original investigation in 2018 concluded that there was a threat of serious injury, which safeguard measures were intended to prevent.*

*Our analysis has indicated that the UK market faced a similar threat of serious injury in 2018, and that for product categories 1, 2, 4, 5, 13, 15, 19, 20, 21, 25B, and 26 there is a likelihood of serious injury should the goods be no longer subject to the tariff rate quotas. (**emphasis** added).*

To a no lesser extent, the conclusions reached by the EU and UK apply equally to the Australian economic landscape for HRC steel. In the absence of adequate trade measures, the Australian industry will experience a recurrence of dumping and material injury.

### iii. Conclusion

The Commission needs to appropriately consider the period beyond the life of the current measures to determine if it is likely that dumped and injurious HRC exports from Taiwan will likely recommence. The above indicates that the likely impact of HRC imports from Taiwan on the domestic industry would be significant if the measures were discontinued. As shown above, should the discipline of the measures be removed, subject producers will likely export a significant volume of HRC to the Australian market. Those unfairly traded imports would likely take sales from the Australian industry and depress and/or suppress Australian prices. These developments would then likely cause Australian industry's output, sales, market share, profits, productivity, return on investments, and capacity utilization to decline. They would also likely have significant negative effects on other aspects of the industry's performance, such as employment, wages, growth, and investment.

Accordingly, the likely adverse impact of the subject imports would be significant if the measures expire in December 2022. The Australian industry therefore remains vulnerable to material injury in the event of expiration. Should trade relief be terminated, the Australian HRC steel industry will experience a continuation or recurrence of material injury, as it did prior to the imposition of the measures. Given the Commission's previous determinations with respect to the volumes and injurious price effects of subject imports, as well as the importance of price to BlueScope, a substantial volume of dumped subject imports will inevitably result in the decline of Australian prices and the overall financial performance of the domestic industry. The history of the original investigation, alongside Continuation 400, shows that dumped subject imports can cause material injury to the Australian industry within a short period of time.