ATTACHMENT A

Application for Continuation of a Dumping and Countervailing Duty Notice
Zinc Coated (galvanised) Steel exported from India, Malaysia, and the Socialist Republic of Vietnam

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 twelve anti-dumping and/or countervailing measures are currently imposed by WTO member countries on galvanised steel from India, Malaysia and Vietnam, as classified to the six-digit tariff subheadings for 7210.49, and 7212.30.[1]

Major Jurisdictions

Anti-Dumping Measures – United States

In the United States ("U.S."), anti-dumping ("AD") and Countervailing ("CVD") orders are currently imposed by the Department of Commerce ("DOC") on galvanised steel imports from India, Malaysia, and Vietnam under the Corrosion Resistant steel products ("CORE") category.

India

1. Current AD/CVD Orders

The current cash deposit rates reflected in U.S. Customs and Border Protection's ("CBP") Automated Customs Environment ("ACE") are as follows:[2]

Entity	AD		Entity	CVD
JSW Coated Products Limited; JSW Steel Ltd.	22.57%		Amba River Coke Limited; JSW Steel (Salav) Limited; JSW Steel Coated Products Limited; JSW Steel Processing Centers Limited; JSW STEEL LIMITED	11.30%
Atlantis International Services Company Ltd.; Uttam Value Steels Limited; UTTAM GALVA STEELS LIMITED; Uttam Galva Steels (BVI)	0% (no cash deposit required)[3]		Uttam Galva Metallics Limited.; Uttam Value Steels Limited; UTTAM GALVA STEELS LIMITED	588.43%[4]

[1] Confidential Attachment 1 – WTO Integrated Trade Intelligence Portal; galvanised steel trade remedies against India, Malaysia, and Vietnam (extract made 04/08/2021).
[2] Confidential Attachment 2 – BlueScope U.S. AD/CVD Trade Measures Research.
[3] Uttam Galva is excluded from the AD duty order as they received a 0.00% duty rate in the underlying investigation after litigation.
[4] The DOC has revised this figure downward as a result of litigation to 554.26% as of May 11, 2021.

Limited; Uttam Galva Steels, Netherlands, B.V.				
All-others	0.47%		All-others	6.12%

2. Administrative Reviews

During the 2017/18 review of the measures, Uttam received a rate based on full Adverse Facts Available ("AFA"). However, because they were successful in their Court challenge to a DOC determination in the original investigation, they received a 0% rate and were thus excluded from the order. No AD review was initiated for the 2018/19 period or the 2019/20 periods. Review requests for the 2020/21 period were due no later than 31 July 2021. With respect to JSW, they received a rate of 4.44% in the initial investigation which was later revised upward in the first administrative review to the 22.57% indicated above.

3. CVD Reviews

The Indian CVD order has not been subject to review since the first review covering the November 2015 to December 2016 period. In the course of that review, JSW's rate of 4.24% secured during the investigation, rose to the 11.30% above (currently in place). Uttam Galva received the rate reflected in the table above during the first review. During the investigation, Uttam Galva had received a rate of 8.00%. The all-others rate was initially set at 18.73%.

4. Sunset Review

As at the time of lodgement of this application, no party has entered to represent any exporter in India or the Government of India in the DOC's first upcoming sunset proceeding.

Vietnam

U.S. CORE imports of Vietnamese origin are not currently subject to an AD or CVD duty order. These exports are, however, subject to three anti-circumvention findings. Specifically, Vietnamese CORE produced using substrate from China, Korea, or Taiwan is currently subject to the cash deposit rates identified below:[5]

COO of Substrate	AD	CVD
China	199.43%	39.05%
Korea[6]	8.31%	1.19%
Taiwan[7]	1.53%[8] or 3.66%	N/A

These rates have been applied without regarding to the Vietnamese producer or exporter. The only criteria for the application of these duties is whether the Vietnamese shipment carries a certification stating that the CORE was

[5] Confidential Attachment 2 – BlueScope U.S. AD/CVD Trade Measures Research.

[6] Only certain exporters are eligible to provide a certification that they are eligible to avoid the cash deposit rate applicable to CORE produced in Vietnam using substrate from **Korea**. The following companies are NOT eligible: 190 Steel Pipe Co., Ltd., Chinh Dai Steel Limited, Hoa Phat Steel Pipe Co., Perstima Viet Nam,; Prima Commodities Co., Thai Nguyen Iron and Steel Corp., Thong Nhat Flat Steel, Trung Nguyen Steel Co, Ltd., Vietname Germany Steel JSC, Vietnam Steel Corp., Vietnam Steel Pipe, Vian Kyoei Steel Ltd., and Southern Steel Sheet Co., Ltd.

[7] Only certain companies are eligible to provide a certification that they are eligible to avoid the cash deposit rate applicable to CORE produced in Vietnam using substrate from **Taiwan**. The following companies are NOT eligible: 190 Steel Pipe Co. Ltd., Chinh Dai Steel Limited, Hoa Phat Steel Pipe, Perstima Viet Nam, Prima Commodities Co., Thong Nhat Flat Steel, Trung Nguyen Steel Co., Vietnam Germany Steel JSC, Vietnam Steel Corp., Thai Nguyen Iron and Steel Corp., Vina Kyoei Steel Ltd., and Vietnam Steel Pipe.

[8] CORE from Vietnam produced using substrate with an origin of Taiwan that is produced or exported by the following companies is eligible for the lower rate: Hoa Sen Group; Nippon Steel; Sumikin Sales Vietnam Co., Ltd.; and Ton Dong A Corporation.

produced using substrate from one of the three countries, with the caveat that the companies identified above are not eligible to participate in that process. Specifically:

- where the substrate was not produced in China, Korea, or Taiwan, no duties are applied;
- where the origin of the substrate is unknown, the cash deposit rate applicable to substrate produced in China is applied;
- if the substrate is not produced in Korea or China, the rate for Taiwan is applied. Similarly, if the substrate was not produced in Taiwan or China, the rate for Korea is applied.

Malaysia

CORE products from Malaysia are not currently subject to U.S. AD or CVD measures. They are, however, subject to two anti-circumvention findings. Specifically, Malaysian CORE produced using substrate from China or Taiwan is currently subject to the following cash deposit rates:[9]

COO of Substrate	AD	CVD
China[10]	199.43%	39.05%
Taiwan[11]	3.66%	N/A

Anti-Dumping Measures – Canada

Canada has in place the following trade remedy measures on imports of corrosion resistance steel sheet (which includes galvanised steel) from India and Vietnam:

Product	Country	Exporter	AD Duty	CVD Duty
Corrosion Resistant Steel Sheet	India[12]	All	40%	N/A
	Vietnam[13]	China Steel & Nippon Steel Joint Stock Co.	4.7%	0.0%
		Hoa Sen Group Joint Stock Co.	11.0%	0.0%
		Nam Kim Steel Joint Stock Co.	2.4%	0.0%
		Southern Steel Sheet Co. Ltd.	71.1%	0.1%
		Ton Dong A Corporation	16.2%	0.0%
		All other exporters	71.1%	0.2%

Other Trade Defence Mechanisms

In 2018, the U.S. imposed a 25% tariff on a wide range of steel imports, including galvanised steel, on national security grounds ("Section 232"). None of the countries named in this application are excluded in totality from the measure.

The U.S. has historically been a large export market for metallic coated 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 galvanised steel from the subject countries into the U.S. has been profound, as highlighted by the U.S. Steel Import Monitoring data

[9] Confidential Attachment 2 – BlueScope U.S. AD/CVD Trade Measures Research.

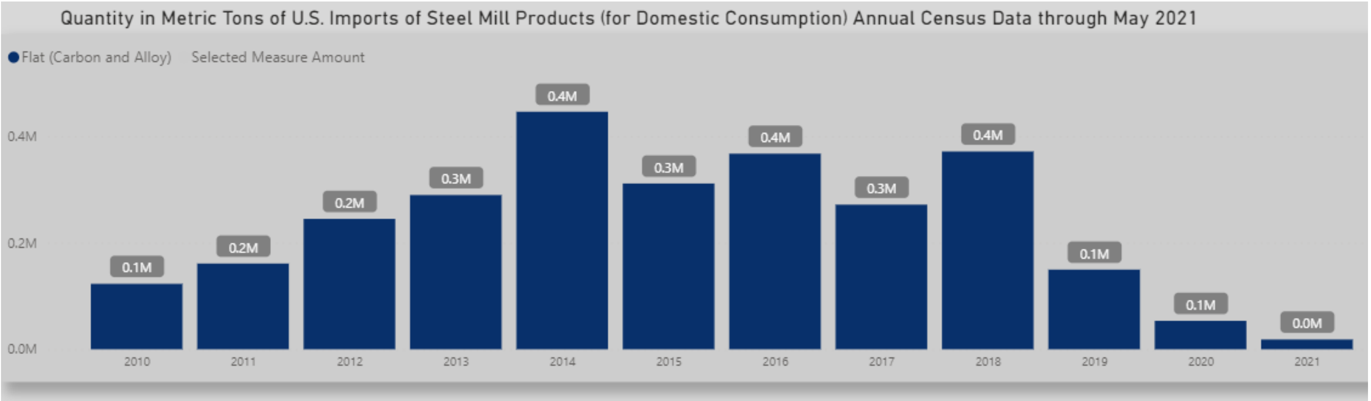
[10] Only certain Vietnamese exporters are eligible to provide a certification that they are eligible to avoid the cash deposit rate applicable to CORE produced in Malaysia using substrate from **China**. The following companies are NOT eligible: FIW Steel Sdn Bhd, Hsin Kuang Steel Co Ltd, Nippon EGalv Steel Sdn Bhd, and YKGI/Yun Kong Galv. Ind/Starshine Holdings Sdn Bhd/ASTEEL Sdn Bhd.

[11] Only certain companies are eligible to provide a certification that they are eligible to avoid the cash deposit rate applicable to CORE produced in Malaysia using substrate from **Taiwan**. The following companies are NOT eligible: FIW Steel Sdn Bhd, Hsin Kuang Steel Co Ltd, Nippon EGalv Steel Sdn Bhd, NS BlueScope Malaysia Sdn Bhd, and YKGI/Yun Kong Galv. Ind/Starshine Holdings Sdn Bhd/ASTEEL Sdn Bhd.

[12] https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/cor2018/cor2018-fd-eng.html

[13] https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/cor22019/cor22019-nd-eng.html

service ‘SIMA’. An extract from SIMA below shows that exports of carbon and alloy hot dipped galvanised steel sheets have fallen dramatically, from a high of 371 thousand tonnes in CY2018 to just 18 thousand tonnes for the first 5 months of 2021.[14]



Countries View | Products View

Quantity in Metric Tons of U.S. Imports of Steel Mill Products (for Domestic Consumption) Annual Census Data through May 2021

Country	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total
India	122,487.0	161,028.8	244,930.1	289,648.2	445,798.0	287,658.2	95,225.7	93,450.4	2,554.7	1,102.7	317.6	320.0	1,744,521.4
Vietnam	414.5				292.5	22,295.5	269,034.7	124,799.3	336,914.6	143,373.2	52,967.1	18,060.6	968,151.8
Malaysia						1,348.0	3,077.1	53,334.3	31,986.9	5,153.9	194.6		95,094.9
Total	**122,901.4**	**161,028.8**	**244,930.1**	**289,648.2**	**446,090.5**	**311,301.7**	**367,337.5**	**271,583.9**	**371,456.1**	**149,629.8**	**53,479.3**	**18,380.6**	**2,807,768.0**

The significant loss of hot dipped galvanised export volumes to the U.S. has meant that subject country exporters 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.[15] The measures are imposed on 26 steel products imported into the EU, and will remain in place until June 30, 2024, with quota volumes for the products increasing by 3% year-on-year. Where quota volumes are exceeded, an additional 25% duty is levied.[16]

The extended steel safeguard includes those tariff subheadings covering the EU importation of galvanised steel, including assigning specific quota volumes for India. Quota volumes for Malaysia and Vietnam and included within the ‘Other countries’ category.[17]

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. Galvanised steel is included within the safeguard under *Product Number 4.*[18]

[14] https://www.trade.gov/data-visualization/us-steel-import-monitor
[15] Non-Confidential Attachment 3 – 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.
[16] Ibid.
[17] Ibid, p. 30.
[18] Non-Confidential Attachment 4 – Statement of Intended Preliminary Decision; Transition Review TF0006 – Safeguard measures on certain steel product. May 19, 2021.

- **Countervailing subsidy programs in India**

A review of the subsidy programs identified in original galvanised steel investigation 370 (2016) ("Report 370") as being countervailable reveals that a number of these programs have again been deemed to be countervailable by the Commission in subsequent trade remedy inquiries. In Review inquiry 521 ("Review 521"),[19] the Commission determined that financial benefits were conferred to galvanised steel producers from India in respect of the goods via countervailable subsidy programs (11 existing programs from investigation 370).[20] In Review 521's Final Report of February 2021, The Commission concluded in relevant part:

> "*As stated in section 2.4.3.2 of this report, the Commission has determined that all exporters from India are non-cooperative exporters. The Commission received a response to the government questionnaire from the GOI. Therein, the GOI stated that there were no fundamental changes to the subsidy programs which the Commission deemed countervailable in Investigation No. 370. The Commission assessed each of the countervailable programs in respect of India in the review period and did not find evidence that the existing programs had changed in any fundamental way since they were assessed in Investigation No. 370.*
>
> *The resulting total subsidy margin applicable to exports by non-cooperative and all other exporters is 4.3 per cent.*"[21]

Given the recency of this determination, BlueScope submits that there continues to be no fundamental changes to the subsidy programs deemed countervailable for all Indian producers.

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

In Review 521, the Commission determined that the variable factors for India, Malaysia, and Vietnam had changed from the original investigation, and imposed the following revised interim dumping ("IDD") and countervailing duties:[22]

[19] Covering an investigation period ending June 2019 – refer https://www.industry.gov.au/regulations-and-standards/anti-dumping-and-countervailing-system/anti-dumping-commission-archive-cases/521
[20] Review 521 Final Determination, p. 87 (p. 157, Table B.5, for the listing of countervailable programs).
[21] Ibid.
[22] Review 521 Final determination, p. 95.

Country	Exporter	Duty method – IDD	Effective rate of IDD[182]	Duty method – ICD	Rate of ICD
China	Shandong Guanzhou Dingxin Plate Technology Co. Ltd	Floor price	0.0%		N/A
	Guanxian Hongshun Composite Material Co., Ltd	Floor price	0.0%	Proportion of export price	0.0%[183]
	Jiangyin Zongcheng Steel Co., Ltd.	Combination	8.9%		N/A
	All other exporters	Combination	12.0%	Proportion of export price	12.1%
India	All other exporters	Combination	8.5%	Proportion of export price	4.3%
Korea	KG Dongbu Co. Ltd	Floor price	0.0%		N/A
	All other exporters	Floor price	0.0%		N/A
Malaysia	All other exporters	Combination	16.5%		N/A
Taiwan	Chung Hung Steel Corporation	Floor price	0.0%		N/A
	Prosperity Tieh Enterprise Co., Ltd	Floor price	0.0%		N/A
	Yieh Phui Enterprise Co Ltd	Combination	5.3%		N/A
	All other exporters	Combination	8.6%		N/A
Vietnam	China Steel Sumikin Vietnam Joint Stock Company	Floor price	0.0%		N/A

In the determination of new normal values for a likely continuation inquiry period ending 30 June 2021, BlueScope has applied the above IDD rates for India, Malaysia, and Vietnam to known export prices for the period covered by Review 521 to firstly establish prima facie normal values. BlueScope has then indexed these values forward from August 2019 to June 2021 using relevant published steel price indices from the subject countries' home markets.[23] This methodology accurately depicts normal values based on price movements of the subject goods (and where relevant, key steel feed components thereof).

[23] Refer Confidential Attachment 6. In BlueScope's view, this provides an accurate and contemporary methodology in calculating current normal values, and is consistent with the Commission's price determination approaches where indexing is required (for example, when ascertaining an export price for the purposes of a review under Division 5, where there are no, or a low volume of, exports during the period examined).

[redacted]

Confidential Chart 1 – Galvanised Steel Normal Values; China, Korea, Malaysia, and Taiwan

BlueScope refers the Commission to Confidential Attachment 6 for full details.

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

Exports from the subject countries have continued post the imposition of measures. BlueScope provides at Confidential Appendix A-2 an estimate of these volumes and consequent export prices.

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

BlueScope understands from available [*confidential data source*] and [*confidential data source*] export data that Indian, Malaysian and Vietnamese exporters have maintained distribution links into the Australian market. The continued export activity via these established export pathways presents an opportunity for exporters to quickly increase sales volume of dumped and subsidised galvanised steel if the measures are removed.

From Review 521 and confidential market intelligence, BlueScope understands that the main exporter/Australian importer relationships can be summarised as follows:

Country	Comments / Details
India	On the basis that all Indian subject goods exporters were deemed uncooperative (for the purposes of the dumping notice) and non-cooperative (for the purposes of the countervailing notice), Review 521 established the export price with reference to import data from the ABF import database.[24] The existence of Indian subject goods export trade to Australia during the Review 521 investigation, coupled with more recent [*confidential data source*] export data evidencing ongoing export activity over the likely continuation inquiry period,

[24] Review 521 Statement of Essential Facts, p. 68.

	highlights that Indian exporters have maintained distribution links following investigation 370.
Malaysia	Review 521 determined that there were no imports of the goods from Malaysia during the review period.[25] In investigation 370, the Commission verified that Cedex Steel & Metals Pty Ltd[26] specifically imported the subject goods from Malaysia. The country of origin sources for the other verified importers (Stemcor (S.E.A) Pty Ltd, Mitsubishi Australia Pty Ltd, and Commercial Metal Pty Ltd) were not disclosed by the Commission in the verification reports. BlueScope asserts that in the absence of measures, Malaysian producers of galvanised steel will return to the Australian market, the ease of which will be facilitated by relationships with Australian importers who will seek out lowest cost supply. These distribution links are clearly utilised in an opportunistic manner. In investigation 370, the Commission found that Malaysian exports had increased from very small volumes in FY13, and continued to increase through to FY16.[27] Malaysian volumes increased at a time when IDD's were being imposed on dumped, subsidised and consequently injurious Australian galvanised steel exports from China, Korea, and Taiwan.[28] These measures prompted Malaysia to enter the Australian market at dumped and injurious prices. It is highly probable that they will do so again should the measures expire.
Vietnam	Review 521 concluded that: "*CSVC, the only cooperative exporter in the review period from Vietnam did not export any of the subject goods to Australia. The Commission therefore considers that the most reliable and relevant information it possesses in relation to exports of the goods from Vietnam over the review period is the import data in the ABF import database.*"[29] In the same vein as India and Malaysia, the Commission has evidenced that Vietnam has maintained its export distribution links to Australia. In addition, BlueScope provides at Confidential Attachment 5 a listing of known Vietnamese exporter/Australian import relationships over the FY2020/21 fiscal periods.

Non-Confidential Table 1 – Review 521 Dist. Link Findings

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

<u>Summary</u>

Galvanised steel exporters in the named countries have ample excess capacity to increase exports of the subject goods to Australia should the anti-dumping measures be allowed to expire. This excess capacity can be readily redirected through established distribution links which have continued to operate following the imposition of the original measures in August 2017.

[25] Review 521 Final determination, p. 69.
[26] Investigation 370, Folio No. 49, p. 5.
[27] Investigation 370, Folio No. 106, p. 27 (as charted).
[28] Imposed, specifically, in August 2013. Investigation's 190a and 193a refer.
[29] Review 521 Final determination, p. 70.

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. Galvanised steel is produced from HRC substrate – a product of primary steel production. Overcapacity in such primary steel production affects the volume of production, price, profitability, and export orientation of the subject goods.

The Organisation of Economic Cooperation and Development ("OEDC") 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.[30] 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.[31] Fully implemented, this would add approximately 44 million metric tonnes of new global steel-making capacity within the next three years.[32]

The Commission's Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission[33] 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".*[34]

At the March 2018 OECD Steel Committee meeting, it was further noted that:

> *"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."*[35]

In March 2019, the OEDC Steel Committee again "*…expressed concerns about the low growth prospects for the*

[30] Non-Confidential Attachment 7 – *OECD Latest Development in Steel Making Capacity, 2020*. P. 9 (2.1.1 Global Summary).
[31] Non-Confidential Attachment 8 – *Extending the EU Safeguard; Key Elements* (February 2021, p. 1).
[32] Ibid.
[33] https://www.industry.gov.au/data-and-publications/analysis-of-steel-and-aluminium-markets
[34] 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.
[35] OECD, "Statement by Lieven Top, Chair of the OECD Steel Committee", 84th Session of the OECD Steel Committee, (5-6 March 2018).

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."[36]

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.[37] SEAISI forecasts an alarming increase across the region from the current existing capacity of [*XXX*] million metric tonnes, to [*XXX*] million metric tonnes.[38] This will be driven primarily by Chinese investment,[39] the steel industry of which is not impartial to ignoring the economic and fiscal impacts of unmitigated steel manufacture in the face of stagnant global demand.

Galvanised Steel 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 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 galvanised steel.

In the final report to investigation 370, the Commission found that exports of galvanised steel from Malaysia and Vietnam in the future would be at dumped prices, and from India at dumped and subsidised prices, and that continued dumping and subsidisation may cause further material injury to the Australian industry.[40]

The Commission's assessment of ABF import data following the FY2017 inquiry 370 investigation period revealed that India's export volumes to Australia had increased, Malaysia's had slightly decreased, and that Vietnam's had not changed.[41] At that stage, the named countries clearly retained excess capacity – the Australian market remained attractive to transact excess production above domestic demand even in the face of a pending trade remedies investigation that would likely find material dumping, material injury, and the causal link.

Confidential Appendix A2 evidences the ongoing trade of the subject goods into the Australian market, and by extension the excess capacity in each of India, Malaysia, and Vietnam that drives it.

BlueScope asserts that galvanised steel excess capacity in the named countries has not lessened to any extent since the investigation 370 findings. This excess capacity, over and above domestic demand, has meant that producers will seek to offload excess production by exporting galvanised steel to Australia at dumped and injurious levels.

The current annual capacities of galvanised steel producers from India, Malaysia, and Vietnam are as follows:[42]

[redacted]

[36] OECD, "Statement by Mr Jai Motwane, Vice Chairman of the OECD Steel Committee", 86th Session of the OECD Steel Committee, (25-26 March 2019).
[37] Confidential Attachment 9: South East Asian Iron & Steel Institute, "Update on ASEAN Steel Industry Development Scenario", (25 November 2019).
[38] Ibid.
[39] Ibid.
[40] Investigation 370, Final Determination, p. 80.
[41] Ibid.
[42] Confidential Attachment 10.

[redacted]

Confidential Table 2 – India / Malaysia / Vietnam Galvanised Steel Production Capacities

In Appendix A-2, BlueScope has estimated the size of the Australian market to be [*XXX*] thousand tonnes for the twelve months ending June 2021. This market size represents only 5.9% of the capacity of galvanised steel exporters from the subject countries. Excluding the Vietnamese producers Hoa Sen Group and Nam Kim Steel (not subject to measures), and [*commercial-in-confidence*], overall capacity reduces slightly to [*XXX*] million metric tonnes.

BlueScope submits that, in the absence of effective trade measures, both previously high-volume exporters and likely new market participants from the named countries will return to the Australian market.

ii. Will material injury recur?

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

BlueScope has provided Confidential Appendix A-2 with this application.

The significant volume of subject goods exported from the countries subject to the measures during the investigation 370 inquiry period, at the dumped, subsidised and materially injurious prices as determined by the Commission in the Final Determination, demonstrates that should the measures be allowed to expire there exists a high probability that exporters from India, Malaysia, and Vietnam will return to the Australian market on a material scale at materially injurious prices.

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

BlueScope has referenced [*confidential data source*] and [*confidential data source*] galvanised steel export statistics in estimating sales volumes, values, and consequent market shares for the both named 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.

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

Summary

BlueScope submits that in the event the anti-dumping measures applicable to galvanised steel exports from the subject countries are allowed to expire on 16 August 2022, the Australian industry will suffer, and be threatened with a recurrence of, material injury that the measures are intended to prevent.

Investigation 370 – Injury Recurrence Virtually Certain

The outcomes of investigation 370 are a relevant consideration for the Commission in determining the likely impact on the Australian industry of the measures expiring against India, Malaysia, and Vietnam.

BlueScope's application to investigation 370 claimed that injury from India, Malaysia, and Vietnam commenced in FY2014 following the imposition of anti-dumping measures on exports from China, Korea, and Taiwan in August 2013. BlueScope also claimed that the material injury continued in FY2016 as dumped and subsidised imports from India, and dumped goods from Malaysia and Vietnam prevented BlueScope from achieving adequate returns on sales.

This was ultimately affirmed by the Commission. In terms of volume trends, the Commission concluded that:[43]

- Malaysia increased from very small volumes in 2013 (discussed above);
- India increased significantly in FY2014;
- Vietnam increased significantly in FY2013, and remained steady from FY2014 to FY2016;

[43] Investigation 370, Folio No. 106, p. 27.

- Countries subject to anti-dumping measures **declined significantly** in FY2014 from FY2013 (after the imposition of measures); and
- All other countries generally declined from FY2013 to FY2016.

The volume trend finding from the Commission highlights two things:

1. That the anti-dumping measures on galvanised steel applied against Korea and Taiwan, and the anti-dumping and countervailing measures applied against China, from Investigations 190a and 193a, were effective in FY2014; and that

2. India, Malaysia, and Vietnam (previously non-existent in the Australian market) opportunistically sought to replace volumes from the above-noted countries and commence causing material injury to the Australian industry.

The trade measures in place against galvanised steel from China, Korea, and Taiwan expire in August 2023, and hence will remain in-force when those against India, Malaysia, and Vietnam are due to expire 12 months earlier. BlueScope is therefore categorical in its view that the injurious volume trend identified by the Commission in investigation 370 will resume if the measures are permitted to expire.

At section 9.15 of the Final Determination to investigation 370, the Commission assessed that dumping and subsidisation from the subject countries had caused material injury:[44]

> "*The Commissioner finds that, during the investigation period, BlueScope experienced price competition from dumped and subsidised goods from India, dumped goods from Malaysia and dumped/undumped goods from Vietnam.*
>
> *After having regard to the relative prices and volumes of these goods, the Commissioner considers that the Australian selling prices of dumped and subsidised goods from India and dumped goods from Malaysia and Vietnam have influenced BlueScope's selling prices, and the prevailing market prices in Australia.*
>
> *The Commission also took into account the specific evidence provided by BlueScope to substantiate examples where it faced pressure to lower its prices to compete with dumped and/or subsidised imported goods. This evidence demonstrates that while the Australian industry was able to increase its sales volume and market share, it faced aggressive price competition with dumped and/or subsidised goods from all three nominated countries subject to this investigation.*
>
> …
>
> *Accordingly, the Commissioner is satisfied that the goods exported from India at dumped and subsidised prices and those exported from Malaysia and Vietnam at dumped prices caused BlueScope to experience injury by means of an inability to increase prices, and the adverse impacts on its profits.*"

In terms of whether material injury would continue:[45]

> *The Commissioner considers that a continuation of price competition from dumped imports from India, Malaysia and Vietnam and subsidised imports from India are likely to have a continuing adverse impact on the Australian industry. The Commission considers that this impact may be particularly evident in price undercutting, reduced profits and profitability, reduced capital expenditure and reduced employment.*

[44] Ibid, p. 75-76.
[45] Ibid, p. 81.

> *Based on the available evidence, the Commissioner finds that exports of galvanised steel from India, Malaysia and Vietnam at dumped and/or subsidised prices and that continued dumping and subsidisation may cause further material injury to the Australian industry.*

The obvious and highly probable outcome should the measures be allowed to expire is that Australian industry will once again face aggressive price competition on subject goods exports from India, Malaysia, and Vietnam.

Contemporary Foreign Jurisdictional Considerations

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

United States / Canada

BlueScope has outlined above the various trade measures imposed by the U.S. and Canada on subject goods exports to those markets from India, Malaysia, and Vietnam. It is unsurprising that the first tranche of sunset/continuation inquiries to be undertaken by the U.S. and Canada will occur on/around the same time as the likely continuation inquiry proposed here. It is unsurprising on the basis that the named countries have taken a similar export pattern-of-trade approach to that of Australia; seeking out export markets to price undercut local industry once effective trade measures are imposed against larger exporter-producers such as China, Korea, and Taiwan.

EU & UK – Steel Safeguard Measures Imposed

As noted above, galvanised steel has been included in the recently extended EU safeguard on certain steel products. In affirming the extension, the EU concluded:[46]

> "*…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.*

[46] Non-Confidential Attachment 3 – 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.

> *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].

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 galvanised steel. In the absence of adequate trade measures, the Australian industry will experience a recurrence of dumping and material injury.

Third Country Exports

Prevailing third country export destinations for galvanised steel from India, Malaysia, and Vietnam (past volume trends and present trade patterns) is also a relevant factor in the Commission's assessment of likely prospective outcomes should the measures be discontinued.

India

On a metric tonne and USD basis, India's top 10 third country exports of the subject goods over the 2016-2021 period were:[47]

[redacted]

[47] Confidential Attachment 11.

[redacted]

Confidential Table 3 – Indian Third Country Exports

Malaysia

Malaysia's top 4 third country exports of the subject goods over the 2016-2021 period were as follows:[48]

[redacted]

Confidential Table 4 – Malaysian Third Country Exports

Vietnam

[48] Confidential Attachment 11.

Vietnam's third country exports of the subject goods over the 2019-2021 period were as follows[49]

[redacted]

Confidential Table 5 – Vietnamese Third Country Exports

Third Country Export Conclusions

The important trends evident in past and present third country exports of galvanised steel by India, Malaysia and Vietnam are:

1. Where third country trade barriers are imposed, and the subject countries have maintained a volume trade presence, prices have increased (for example, Indian and Vietnamese FOB export prices to Belgium, and Indian export prices to Spain and the UK have increased dramatically in 2021 on the back of the EU/UK Safeguards);
2. Where prohibitively high traded barriers are imposed by third countries, the subject countries have ceased exporting, or are exporting small volumes at non-indicative prices (for example, India's and Malaysia's trade in the subject goods to the U.S. market ceased due to the imposition of trade remedy tariffs and the Section 232 sanction); and
3. Where third country trade remedy tariffs and trade barriers do not exist, named country volumes to those markets remain high and prices remain low.

BlueScope submits, in the absence of continued anti-dumping measures, India, Malaysia and Vietnam will revert to #3 above in a materially injurious manner.

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 galvanised steel exports from the subject countries will likely recommence. BlueScope contends that should the measures be allowed to expire in August 2022, it is likely that the Australian industry would experience a recurrence of dumping and material injury. This is premised on the fact that:

- imports from the subject countries have continued since the imposition of measures, at dumped prices (albeit at lower overall volumes);
- Review 521 confirmed that exports of galvanised steel to Australia in FY2019 were at dumped levels for India and Malaysia;

[49] Confidential Attachment 12.

- exporters of galvanised steel in India, Malaysia, and Vietnam have maintained distribution links into the Australian market, and have done so since the imposition of the original measures in August 2017;
- anti-dumping and other similar trade measures applied and/or continued to exporters of the subject goods from India, Malaysia, and Vietnam by other jurisdictions will influence the future export orientation of galvanised steel towards destinations where measures do not apply;
- producers in India, Malaysia, and Vietnam have excess capacity to increase export volumes to Australia; and
- third country volume and price trends highlight the Indian, Vietnamese, and Malaysian opportunistic export trade patterns in the absence of appropriate trade measures.

BlueScope therefore requests that the Commission commence an investigation into the continuation of anti-dumping measures on galvanised steel exported from India, Malaysia, and Vietnam in accordance with Division 6A – Continuation of anti-dumping measures. BlueScope is seeking that the dumping and countervailing measures be extended beyond August 2022 for a further five-year period.