



Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601

Ms Jaclyne Fisher  
Anti-Dumping Review Panel  
C/- ADRP Secretariat, Legal Services Branch  
Department of Industry, Innovation and Science  
10 Binara Street  
CANBERRA CITY ACT 2601

**ANTI-DUMPING REVIEW PANEL - REVIEW NO. 2017/66**

Dear Jaclyne

I write with regard to the notice published under section 269ZZI of the *Customs Act 1901* (the Act)<sup>1</sup> on the Anti-Dumping Review Panel (ADRP) website on 31 August 2017. The notice advises of your intention to review the decisions (the Reviewable Decisions) by the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary) to publish notices under subsection 269ZDB(1)(a) in relation to:

- certain aluminium zinc coated steel exported from the Republic of Korea (Korea) by Dongbu Steel Co Ltd (Dongbu Steel); and
- certain zinc coated (galvanised) steel exported from Korea by Dongbu Steel.

The findings relating to the Reviewable Decisions were published on the Anti-Dumping Commission (the Commission) website on 20 July 2017.<sup>2</sup>

The following submission at **Appendix A** is for your consideration. I and the Commission remain at your disposal to assist in this matter.

Yours sincerely

Paul Sexton  
Acting Commissioner  
Anti-Dumping Commission

22 September 2017

<sup>1</sup> All legislative references are to the *Customs Act 1901* unless otherwise specified.

<sup>2</sup> Anti-Dumping Notice Nos. 2017/86 and 2017/87 refer.

## APPENDIX A

I make the following submission in response to the grounds set out in the public notice under section 269ZZI, in respect of the Reviewable Decisions of the Parliamentary Secretary and the Commissioner of the Anti-Dumping Commission's (the Commissioner's) associated recommendations in *Anti-Dumping Commission Report Nos. 385 and 366* (REP 385 & 386).

BlueScope Steel Limited (BlueScope) raises the following grounds for review:

1. In establishing revised variable factors for the nominated exporter, the Parliamentary Secretary failed to consider the significant increases in raw material prices in the period subsequent to the review period (and up to the date of the decision); and
2. The Parliamentary Secretary should not have accepted the Commissioner's recommendations to set export prices equal to normal values in the absence of any exports by the exporter during the review period.

I address each of these grounds below.

### **Ground 1: Use of contemporary data**

In its application, BlueScope referred to its submission to the Case Director detailing sustained changes in raw material (i.e. hot rolled coil, or HRC) prices following the review period. BlueScope argues that this evidence ('relevant information') should have been considered by the Commissioner and Parliamentary Secretary when determining normal values.<sup>3</sup> BlueScope's application also claimed that the Commissioner and Parliamentary Secretary should have adjusted Dongbu Steel's normal values for aluminium zinc coated steel and galvanised steel to reflect this 'relevant information'.

The Parliamentary Secretary was previously made aware of BlueScope's concerns about the use of contemporary pricing information in the context of nine other reviews concerning exports of aluminium zinc coated steel and galvanised steel from the People's Republic of China and Taiwan (*Anti-Dumping Commission Report Nos. 365, 366, 367, 368, 371, 372, 374, 375 and 376* refer). These nine reviews had similar review periods to the two reviews concerning Dongbu Steel and are currently subject to review by the ADRP (by notice published on 7 July 2017; 2017/58 refers).

With respect to the Reviewable Decisions, BlueScope's concerns were addressed in REP 385 & 386 (section 4.6.2 refers). As a result, I consider that the matters raised by BlueScope were considered by the Parliamentary Secretary in the course of making the Reviewable Decisions.

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<sup>3</sup> The submission, published on 13 June 2017, is on the Commission [website](#).

## **Ground 2: Export prices for exporters that did not export during the review period**

BlueScope does not consider it appropriate for an exporter's export price to be set equal to its normal value, where that exporter has not exported goods to Australia during a review period. BlueScope states that this practice "...sets a *dangerous precedent and assumes that an exporter has ceased dumping which is inconsistent with an exporter's historic behaviour.*"

In relation to this claim, I note that:

- Division 5 does not require an exporter to have exported for any prescribed period in order to apply for a review of anti-dumping measures;
- for each exporter that did not export the goods to Australia during the review period in relation to the Reviewable Decisions, the export price was determined under subsection 269TAB(3). This subsection requires that "*...where sufficient information is not available, to enable the export price of goods to be ascertained under the preceding subsections, the export price of those goods shall be such amount as is determined by the Minister having regard to all relevant information*". I consider that the normal value of exporters who have not exported during the review period is relevant information for the purpose of establishing an export price. In relation to the Reviewable Decisions this information was the best available information;
- my recommendation in relation to the Reviewable Decisions reflects an established practice and did not create a precedent as referred to in BlueScope's application; and
- in situations such as this where the normal value is equal to the export price (and therefore is not dumped) and the variable factors are being altered as a result of a review of measures, I am able to utilise the floor price duty method, which is an available duty method as prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*.