



BlueScope Steel Limited
Sirius Building
Five Islands Road, Port Kembla NSW 2505
PO Box 1854, Wollongong NSW 2500
P +61 2 4240 1214 | M +61 412 377 603
E Chad.Uphill@bluescopesteel.com

21 September 2018

Mr Paul O'Connor
Member
Anti-Dumping Review Panel
C/o Anti-Dumping Review Panel Secretariat
GPO Box 2013
Canberra City ACT 2601

Email: ADRP@industry.gov.au

Public File

Dear Sir/Madam,

Zinc coated (Galvanised) steel exported from the People's Republic of China, the Republic of Korea, and Taiwan – Application for review of a decision by Chung Hung Steel Corporation

I. Introduction

I refer to the application for review of a decision made by the Assistant Minister for Science, Jobs and Innovation (Assistant Minister) under subsection 269ZDB(1)(a)(iii) to vary the variable factors applicable to exports of zinc coated (galvanised) steel ("the goods") to Australia by Chung Hung Steel Corporation ("Chung Hung").

Chung Hung is a manufacturer and exporter of the goods in Taiwan the subject of the anti-dumping measures.

The decision of the Assistant Minister was published on 17 July 2018 (ADN No. 2018/94).

The application made by Chung Hung claimed that the Assistant Minister erred in ascertaining Chung Hung's export prices by including exported goods which were exempt from the Dumping Duty Notice.

BlueScope Steel Limited ("BlueScope") is the only Australian manufacturer of the goods and therefore represents the Australian industry for the purposes of the review of measures investigation.

BlueScope considers the decision of the Assistant Minister is the correct and preferred decision.

The applicant argues that it is incorrect for the Anti-Dumping Commission ("the Commission") to include exempt goods in the calculation of dumping margins as the exempt goods are not covered by the dumping duty notice. The dumping duty notice extends to all goods exported by the exporter, including those that are exempted by the Minister. The exempted goods, therefore, are correctly included in the export price calculation determined for the exporter Ching Hung during the review investigation period.

II. Inclusion of exempt goods in export price calculations

In Statement of Essential Facts No. 456 and 457 (“SEF 456 & 457”) the Commission had initially excluded goods the subject of an exemption notice from the calculation of export prices. By submission dated 21 May 2018 Chung Hung claimed that all sales of goods – including exemption goods – should be included in normal value and dumping margin calculations, notably¹:

“CHS [Chung Hung Steel] requests the Commission to recalculate normal values and preliminary dumping margin ensuring that all TCO domestic sales of like goods by CHS, which comply with the conditions of subsection 269TAC(1) of the Act, be included. There is no basis on which the Commission should or can exclude domestic sales of like goods simply because those goods fall within the parameters of an exemption notice.”

In the event the exemption goods are included in the normal value calculations, it follows that the exemption goods must also be included in export price calculations.

In Report 456 and 457, the Commission commented on Chung Hung’s 21 May 2018 submission:

“Chung Hung submits that all sales (inclusive of those meeting the terms of the relevant exemption) of all models in the OCOT should be included in the normal value calculation. Chung Hung points to subsection 269TAC(1) to submit that no exclusion of goods based on an exemption is permitted. That subsection states that “the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter....”

The Commission reviewed the relevant calculation and the legislative provisions. The Commission formed the view that the Minister’s exemption does not exclude the goods from the operation of a notice under section 269TG. The Commission made a further relevant observation:

“Noting that the Minister has a discretion to revoke an exemption at any time (for example, because the exemption was granted on the basis of a Tariff Concession Order that is no longer in force), the Commission’s view is that such goods remain the subject of the notice despite not attracting a duty liability”.

The Commission therefore agreed with Chung Hung’s representations of 25 May 2018 that the section 269TG notice does not exclude exemption goods from inclusion in the determination of normal values and export price (i.e. the variable factors). Following determination of the weighted average dumping margin for all goods exported to Australia, the exemption enables the exporter to not be liable for any interim dumping duty payable.

BlueScope therefore concurs with the Commission and Chung Hung’s 25 May 2018 representations that the exemption goods are included in the determination of normal values and export prices when calculating weighted average dumping margins for the exporter across the investigation period.

III. Correct or preferable decision

BlueScope submits that the Commission has not erred in its determination of Chung Hung’s export price during the investigation period. The correct and preferable decision involves the inclusion of the export prices for the exemption goods in the calculation of the revised variable factors.

¹ Chung Hung Submission, 21 May 2018, EPR Document 25.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4240 1214, or BlueScope's representative Mr John O'Connor on (07) 3342 1921.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'C Uphill', written in a cursive style.

Chad Uphill
Senior Commercial Specialist – International Trade Affairs