



Australian Government

Anti-Dumping Review Panel

APPLICATION FOR REVIEW OF A DECISION BY THE ANTI-DUMPING COMMISSIONER TO TERMINATE AN INVESTIGATION

Anti Dumping Review Panel
c/o Legal Services Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
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INFORMATION FOR APPLICANTS

WHAT DECISIONS ARE REVIEWABLE BY THE ANTI-DUMPING REVIEW PANEL?

The role of the Anti-Dumping Review Panel (the ADRP) is to review certain decisions made by the Minister responsible for the Australian Customs and Border Protection Service (ACBPS), or by the Anti-Dumping Commissioner (the Commissioner).

The ADRP may review decisions made by the Commissioner:

- to reject an application for dumping or countervailing measures;
- to terminate an investigation into an application for dumping or countervailing measures;
- to reject or terminate examination of an application for duty assessment; and
- to recommend to the Minister the refund of an amount of interim duty less than the amount contended in an application for duty assessment, or waiver of an amount over the amount of interim duty paid.

The ADRP may review decisions made by the Minister, as follows:

Investigations:

- to publish a dumping duty notice;
- to publish a countervailing duty notice;
- not to publish a dumping duty notice;
- not to publish a countervailing duty notice;

Review inquiries:

- to alter or revoke a dumping duty notice following a review inquiry;
- to alter or revoke a countervailing duty notice following a review inquiry;
- not to alter a dumping duty notice following a review inquiry;
- not to alter a countervailing duty notice following a review inquiry;
- that the terms of an undertaking are to remain unaltered;
- that the terms of an undertaking are to be varied;
- that an investigation is to be resumed;
- that a person is to be released from the terms of an undertaking;

Continuation inquiries:

- to secure the continuation of dumping measures following a continuation inquiry;
- to secure the continuation of countervailing measures following a

- continuation inquiry;
- not to secure the continuation of dumping measures following a continuation inquiry;
- not to secure the continuation of countervailing measures following a continuation inquiry;

Anti-circumvention inquiries:

- to alter a dumping duty notice following an anti-circumvention inquiry;
- to alter a countervailing duty notice following an anti-circumvention inquiry;
- not to alter a dumping duty notice following an anti-circumvention inquiry; and
- not to alter a countervailing duty notice following an anti-circumvention inquiry.

WHICH APPLICATION FORM SHOULD BE USED?

It is essential that applications for review be lodged in accordance with the requirements of the *Customs Act 1901* (the Act). The ADRP does not have any discretion to accept an invalidly made application or an application that was lodged late.

Division 9 of Part XVB of the Act deals with reviews by the ADRP. Intending applicants should familiarise themselves with the relevant sections of the Act, and should also examine the explanatory brochure (available at www.adreviewpanel.gov.au).

There are separate application forms for each category of reviewable decision made by the Commissioner, and for decisions made by the Minister. It is important for intending applicants to ensure that they use the correct form.

This is the form to be used when applying for an ADRP review of a decision of the Commissioner to terminate an investigation into alleged dumping and or subsidisation. It is approved by the Commissioner pursuant to s.269ZY of the Act.

WHO MAY APPLY FOR REVIEW OF A DECISION TO TERMINATE AN INVESTIGATION?

Only the person who lodged the application for the publication of a dumping duty notice and/or a countervailing notice may apply to the ADRP for review of the Commissioner's decision to terminate an investigation into that application.

WHEN MUST AN APPLICATION BE LODGED?

An application for a review must be received within 30 days after the applicant was notified of the Commissioner's decision to terminate the investigation (s 269ZZP).

The application is taken as being made on the date upon which it is received by the ADRP after it has been properly made in accordance with the instructions under 'Where and how should the application be made?' (below).

WHAT INFORMATION MUST AN APPLICATION CONTAIN?

An application should clearly and comprehensively set out the grounds on which the review is sought, and provide sufficient particulars to satisfy the ADRP that the Commissioner's decision should be reviewed. It is not sufficient simply to request that a decision be reviewed.

The application must contain a full description of the goods to which the application relates and a statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision (s 269ZZQ(1A)).

If an application contains information which is confidential, or if publication of information contained in the application would adversely affect a person's business or commercial interest, the application will be rejected by the ADRP unless an appropriate summary statement has been prepared and accompanies the application.

If the applicant seeks to bring confidential information to the ADRP's attention (either in their application or subsequently), the applicant must prepare a summary statement which contains sufficient detail to allow the ADRP to reasonably understand the substance of the information, but the summary must not breach the confidentiality or adversely affect a person's business or commercial interest (s 269ZZY).

While both the confidential information and the summary statement must be provided to the ADRP, only the summary statement will be lodged on the public record maintained by the ADRP (s 269ZZX). The ADRP is obliged to maintain a public record for review of decisions made by the Minister, and for termination decisions of the Commissioner. The public record contains a copy of any application for review of a termination decision made to the ADRP, as well as any information given to the ADRP after an application has been made. Information contained in the public record is accessible to interested parties upon request.

Documents containing confidential information should be clearly marked "Confidential" and documents containing the summary statement of that

confidential information should be clearly marked "Non-confidential public record version", or similar.

The ADRP does not have any investigative function, and **must** take account only of information which was before the Commissioner when the Commissioner made the reviewable decision (s 269ZZT(4)). The ADRP will disregard any information in applications and submissions that was not available to the Commissioner.

HOW LONG WILL THE REVIEW TAKE?

The ADRP must make a decision within 60 days of the receipt of the application for review. In special circumstances the Minister may allow the ADRP a longer period for completion of the review (s 269ZZT(5)).

The Review Panel will publish a notice of the decision in a national Australian newspaper and a copy of the decision through www.adreviewpanel.gov.au.

WHAT WILL BE THE OUTCOME OF THE REVIEW?

The ADRP will either affirm the Commissioner's decision or revoke it (s 269ZZT(1)). The ADRP will provide a statement of reasons to the Commissioner and the applicant identifying why the decision was affirmed or revoked.

If the ADRP revokes the Commissioner's decision, the Commissioner must publish a statement of essential facts in relation to the application for a dumping duty notice or countervailing duty notice that is related to the review (s 269ZZT(2)). The investigation then resumes once that statement is published (s 269ZZT(3)).

The ADRP will publish a notice of the decision in a national Australian newspaper and a copy of the decision through www.adreviewpanel.gov.au.

WHERE AND HOW SHOULD THE APPLICATION BE MADE?

Applications must be EITHER:

- lodged with, or mailed by prepaid post to:

**Anti-Dumping Review Panel
c/o Legal Services Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
Canberra City ACT 2601
AUSTRALIA**

- OR emailed to:

ADRP_support@customs.gov.au

- OR sent by facsimile to:

**Anti-Dumping Review Panel
c/o Legal Services Branch
+61 2 6275 6784**

WHERE CAN FURTHER INFORMATION BE OBTAINED?

Further information about **reviews by the ADRP** can be obtained at the ADRP website (www.adreviewpanel.gov.au) or from:

Anti-Dumping Review Panel
c/o Legal Services Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
Canberra City ACT 2601
AUSTRALIA

Telephone: +61 2 6275 5868
Facsimile: +61 2 6275 5868

Inquiries and requests for **general information about dumping matters** should be directed to:

Anti-Dumping Commission
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA CITY ACT 2601

Telephone: 1300 884 159
Facsimile: 1300 882 506
Email: clientsupport@adcommission.gov.au

FALSE OR MISLEADING INFORMATION

It is an offence for a person to give the ADRP written information that the person knows to be false or misleading in a material particular (Penalty: 20 penalty units – this equates to \$3400).

PRIVACY STATEMENT

The collection of this information is authorised under section 269ZZQ of the Customs Act 1901. The information is collected to enable the ADRP to assess your application for the review of a decision to terminate an investigation.

**APPLICATION FOR REVIEW OF
DECISION OF THE COMMISSIONER TO TERMINATE AN
INVESTIGATION**

Under s 269ZZQ of the *Customs Act 1901* (Cth), I hereby request that the Anti-Dumping Review Panel reviews a decision by the Anti-Dumping Commissioner (the Commissioner) to terminate an investigation into whether the Minister should publish:

- a dumping notice(s); and/or
- a countervailing duty notice(s)

in respect of the goods which are the subject of this application.

I believe that the information contained in the application:

- provides reasonable grounds for a review to be undertaken;
- provides reasonable grounds for the decision not being the correct or preferable decision; and
- is complete and correct to the best of my knowledge and belief.

I have included the following formation in an attachment to this application:

- Name, street and postal address, and form of business of the applicant (for example, company, partnership, sole trader).
- Name, title/position, telephone and facsimile numbers and e-mail address of a contact within the organisation.
- Name of consultant/adviser (if any) representing the applicant and a copy of the authorisation for the consultant/adviser.
- Full description of the imported goods to which the application relates.
- The tariff classification/statistical code of the imported goods.
- A copy of the reviewable decision.
- Date of notification of the reviewable decision and the method of the notification.
- A detailed statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision.
- [If the application contains material that is confidential or commercially sensitive] an additional non-confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Signature: *Alan John Gibbs*

Name: ALAN JOHN GIBBS

Position: DEPARTMENT MEMBER - INFORMATION SYSTEMS

Applicant Company/Entity:

BALFOUR BEATTY LIMITED

Date: 15/07/2013



BlueScope Steel Limited
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www.bluescopesteel.com

15 July 2013

Anti-Dumping Review Panel
c/o Legal Services Branch
Australian Customs and Border Protection Service
5 Constitution Avenue
CANBERRA ACT 2601

Email: ADRP_support@customs.gov.au

Dear Sir/Madam

Request for Review of a Decision – Countervailing Inquiry - Zinc Coated (galvanised) Steel and Aluminium Zinc Coated Steel exported from the People’s Republic of China – Termination of part of an Investigation

Please find attached an application for the review of a decision by the Delegate of the Chief Executive Officer of the Australian Customs and Border Protection Service (“Customs and Border Protection”) to terminate investigations into the subsidisation of certain exports of galvanised steel (by the Chinese exporters Angang Steel Company Limited (“ANSTEEL”) and ANSC TKS Galvanising Co., Ltd (“TAGAL”)), and certain exports of aluminium zinc coated steel (by TAGAL).

The decision to terminate the investigations was published on 17 June 2013.

The recommendations and findings of Customs and Border Protection relating to the termination decision are included in Termination Report No. 193(i) of 17 June 2013.

If you have any questions concerning the attached application for review, please do not hesitate to contact me on (02) 4275 3859.

Yours faithfully

A handwritten signature in cursive script, appearing to read "Alan Gibbs".

Alan Gibbs
Manager – International Trade

Application Particulars

1. Contact Details

1.1 Name, street and postal address, and form of business of the applicant

This application for review of a decision of the Delegate of the Chief Executive Officer ("CEO") of Customs and Border Protection to terminate an investigation into whether to impose countervailing measures on exports of galvanised steel and aluminium zinc coated steel exported from the People's Republic of China ("China") by Angang Steel Company Limited ("ANSTEEL") and galvanized steel exported by ANSC TKS Galvanising Co., Ltd ("TAGAL") is made by BlueScope Steel Limited (hereafter referred to as "BlueScope").

BlueScope's postal address is:

P.O. Box 1854
Wollongong NSW 2500
Tel: (02) 4275 3859
Fax: (02) 4275 7810

1.2 Name, title/position, telephone and facsimile numbers, and email address of contact within the organisation

The relevant contact detail at BlueScope for this application for review is:

Contact Name:	Mr Alan Gibbs
Company and position:	Development Manager – International Trade
Address:	Five Islands Road, Port Kembla, NSW, 2500.
Telephone:	(02) 4275 3859
Facsimile:	(02) 4275 7810
E-mail address:	Alan.Gibbs@bluescopesteel.com

1.3 Name of consultant

BlueScope has engaged the following consultant to assist with this application:

Name:	Mr John O'Connor
Representative's business name:	John O'Connor & Associates Pty Ltd
Address:	P.O. Box 329, Coorparoo Qld 4151
Telephone:	(07) 3342 1921
Facsimile:	(07) 3342 1931
E-mail:	jmoconnor@optusnet.com.au

A copy of the signed authorisation nominating Mr O'Connor as BlueScope's representative is included at Confidential Attachment 1.

2. Full Description of the Goods

The goods the subject of BlueScope's application for countervailing measures were described as follows:

"Galvanised steel:

flat rolled products of iron and non-alloy steel of a width less than 600mm and, equal to or greater than 600mm, plated or coated with zinc.

Galvanised steel of any width is included.

Aluminium zinc coated steel:

Flat rolled products of iron and non-alloy steel of a width equal to or greater than 600mm, plated or coated with aluminium-zinc alloys, not painted, whether or not including resin coating."

BlueScope submitted separate applications for countervailing measures for galvanised steel and aluminium zinc coated steel exported from China. As referenced in Termination Report no. 193(i), the applications were identified as investigations 193A and 193B for galvanised steel and aluminium zinc coated steel, respectively.

3. Tariff Classification

Galvanised steel is classified to tariff subheadings 7210.49.00 (and statistical codes 55, 56, 57 and 58) and 7212.30.00 (and statistical code 61) of Schedule 3 to the *Customs Tariff Act 1995* ("Tariff Act").

The general rate of duty is 5 per cent for goods imported under these tariff subheadings. Imports from China are subject to the DCS duty rate which is free.

Aluminium zinc coated steel is classified to tariff subheading 7210.61.00 (and statistical codes 60, 61 and 62) of Schedule 3 to the Tariff Act.

The general rate of duty is 5 per cent for goods imported under this tariff subheading. Imports from China are subject to the DCS duty rate which is free.

4. A copy of the written advice from the CEO of the decision to terminate the investigation

BlueScope was notified of the Delegate's decision to terminate the investigations into exports by ANSTEEL and TAGAL by the publication of Australian Customs Dumping Notice ("ACDN") No. 2013/50 and by notice that appeared in *The Australian* newspaper on that date.

5. **A detailed statement setting out the grounds upon which the Review Officer is being asked to review a decision by the CEO to terminate an investigation into whether a dumping duty notice or countervailing duty notice should be published.**

Introduction

I refer to Australian Customs Dumping Notice (“ACDN”) No. 2013/50 of 17 June 2013 that notified the partial termination of a countervailing investigation into exports of certain zinc coated (galvanised) steel and aluminium zinc coated steel exported from the People’s Republic of China (“China”). The termination of investigations related to exports of certain goods by two Chinese exporters as follows:

- in relation to galvanised steel exported by Angang Steel Company Limited (“ANSTEEL”) and ANSC TKS Galvanising Co., Ltd (“TAGAL”) where countervailable subsidies have been received in respect of the goods but the subsidy margin is not more than two per cent; and
- in relation to aluminium zinc coated steel exported by ANSTEEL where countervailable subsidies have been received in respect of the goods, but the subsidy margin is not more than two per cent.

BlueScope Steel Limited (“BlueScope”) is the applicant company requesting the imposition of countervailing measures on galvanised steel and aluminium zinc coated steel exported from China. BlueScope is requesting a review of the decision by the Delegate of the Chief Executive Officer to terminate the countervailing investigation in relation to exports of galvanised steel by ANSTEEL and TAGAL, and exports of aluminium zinc coated steel by ANSTEEL.

Grounds for Review

Statement of Essential Facts (“SEF”) No. 193 detailed the findings of Customs and Border Protection following investigation of BlueScope’s application asserting that Chinese exporters of galvanised steel and aluminium zinc coated steel benefited from a broad range of subsidies received from the Government of China (“GOC”). The receipt of the subsidies by the Chinese exporters enabled the goods exported to Australia to undercut and cause material injury to the Australian industry manufacturing like goods (i.e. BlueScope).

SEF No. 193 examined the legal basis, whether the subsidy had been notified to the World Trade Organisation (“WTO”), what were the eligibility criteria for the subsidy, whether there was in fact a subsidy, and the amount of the subsidy in relation to the exported goods.

Customs and Border Protection published preliminary findings that ANSTEEL and TAGAL received financial contributions that conferred a benefit under the following countervailable subsidy programs:

(i) ANSTEEL

- Program 2 – Coking coal provided by government at less than adequate remuneration;
- Program 30 – Capital injections;
- Program 31 – Environment protection grant; and
- Program 33 – Independent innovation and Hi-Tech Industrialisation Program.

(ii) TAGAL

- Program 5 – Preferential Tax Policies for Foreign Invested Enterprises – Reduced Tax Rate for productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years;
- Program 32 – High and New technology Enterprise Grant;
- Program 34 – VAT refund on domestic sales by local tax authority; and
- Program 36 – Jinzhou District research and development Assistance Program.

Customs and Border Protection determined that in relation to galvanised steel:

- the goods exported by ANSTEEL were in receipt of countervailable subsidies and the aggregate subsidy margin was assessed at 1.4 per cent; and
- the goods exported by TAGAL were in receipt of countervailable subsidies and the aggregate subsidy margin was assessed as 1.7 per cent.

In respect of aluminium zinc coated steel, Customs and Border Protection determined:

- the goods exported by ANSTEEL were in receipt of countervailable subsidies and the aggregate subsidy margin was assessed as 1.2 per cent.

As the aggregate subsidy margin (i.e. the summation of benefits identified under each subsidy program for each exporter) in relation to a particular exporter of the goods was less than 2 per cent, the chief Executive Officer (“CEO”) must terminate the investigation.

The Delegate of the CEO decided to terminate the investigation into galvanised steel exported by ANSTEEL and TAGAL, and to also terminate the investigation into aluminium zinc coated steel exported by ANSTEEL. Termination Report No. 193(i) refers to the decisions announcing the termination decisions.

BlueScope is seeking a review of the Delegate’s decisions to terminate the investigation into galvanised steel exported by ANSTEEL and TAGAL, and the decision to terminate the investigation into aluminium zinc coated steel exported by ANSTEEL on the grounds that the aggregate subsidy margins, when correctly determined, exceeded the 2 per cent negligible volume threshold and therefore should not have been terminated.

Specific grounds for Review

BlueScope is seeking a review of the assessment and calculation of each of the identified subsidy programs that have been identified by Customs and Border Protection as affording a benefit to the two exporters ANSTEEL and TAGAL.

(a) Program 2 – Coking coal provided by government at less than adequate remuneration

ANSTEEL was identified as an integrated manufacturer of galvanised steel and aluminium zinc coated steel. That is, ANSTEEL produces the intermediate hot rolled coil (“HRC”) itself from certain raw materials including coking coal. In its application BlueScope asserted that Chinese manufacturers of hot rolled coil were receiving a benefit in the form of coking coal at less than adequate remuneration. The Chinese producers of coking coal were assessed as being “public bodies” and the GOC under Program 2 conferred a benefit to exported galvanised steel and aluminium zinc coated steel via the public bodies at an amount reflecting less than adequate remuneration, having regard to prevailing conditions in China.

SEF No. 193 identifies the factors considered by Customs and Border Protection as having influenced the Chinese domestic market price for coking coal. The finding that the domestic prices of coking coal in China were influenced and distorted by the GOC is not challenged by BlueScope. Rather, it is the selected benchmark in determining what constitutes adequate remuneration for coking coal that is of concern to BlueScope.

Customs and Border Protection examined three options for consideration as based upon World Trade Organisation (“WTO”) Appellate Body findings including:

- private domestic prices;
- import prices; and
- external benchmarks.

BlueScope concurs with Customs and Border Protection’s assessment that private domestic prices in China for coking coal are equally impacted by government influence and therefore were unsuitable for use as an appropriate benchmark price. Import prices for coking coal were similarly deemed unsuitable as there was a lack of import penetration of coking coal and the import prices were also affected by the government influences on domestic prices.

In its further consideration of external benchmarks, Customs and Border Protection considered:

- Chinese export price of coking coal compared to the export prices of the top 5 exporting countries of the world;
- Australian export price of coking coal – Australia being one of the major producers of coking coal;
- Import prices of a third country; and
- Korean and Taiwan prices for coking coal.

Customs and Border Protection selected the Chinese export prices for coking coal, despite the GOC stating that the “*quality of coking coal in China is lower than that of Australia*”¹. Customs and Border Protection dismissed Australian export prices on the basis that prices may have been impacted by

¹ Statement of Essential Facts No. 193, P.157.

Queensland floods during the period July to December 2011, however, this would likely only have applied to spot market prices. Korean and Taiwanese prices for coking coal were also disregarded as producers in either country imported all of their respective coking coal requirements.

BlueScope further notes Customs and Border Protection's comments that the use of Chinese export prices is "not without problems" due to a lack of understanding as to the grade of coal that is exported from China and its quality.

BlueScope made representations to Customs and Border Protection that the Chinese export prices could not be readily accessed by interested parties. An understanding as to whether the Chinese export prices are reasonable cannot be ascertained – the export prices were provided by the GOC and were not publicly released.

BlueScope is seeking a review of the Delegate's decision to utilise Chinese export prices as an appropriate benchmark for determining that coking coal in China was provided at less than adequate remuneration. BlueScope rejects the claim by Customs and Border Protection that the export prices are reliable as these were provided by the GOC. The reliability of the data is unproven given the lack of understanding as to the grade and type of coking coal exported from China and the concession by the GOC that indicates coking coal exported from China is inferior to imported coking coal.

It is submitted by BlueScope that the appropriate benchmark for assessing whether coking coal in China was sold at less than adequate remuneration during the investigation period was published prices as reflected in industry publications such as Steel Business Briefing ("SBB"). The use of prices contained in the industry publication would provide a more accurate guidance that at least the correct grade of metallurgical coking coal was compared with domestic Chinese coking coal prices.

(b) *Remaining Programs for ANSTEEL – Programs 30, 31 and 33*

BlueScope is seeking a review of the determination of the benefit received by ANSTEEL under Programs 30 Capital injections), 31 (Environment Protection Grant), and 33 (Independent Innovation and High-Tech Industrialisation). The benefits received by ANSTEEL under the three programs were calculated by reference to the following formula:

$$A_k = \frac{y/n + [y-(y/n)(k-1)]d}{1 + d}$$

where:

A_k	=	the amount of the benefit allocated to year k,
y	=	the face value of the subsidy;
n	=	the Average Useful Life of assets;
d	=	the discount rate; and
k	=	the year of allocation where the year of receipt = 1 and $1 \leq k \leq n$.

Reference is made to the discount rate being the "lower end of the range of long-term rates of the exporter set out in the exporter's annual reports for 2010 and 2011 and the interim report for 2012.

BlueScope does not consider that it is appropriate to use discount rates that are not linked to the investigation period. It is stated that the discount rate is the "lower end of the range" of the long term rates. It is not clear why Customs and Border Protection has selected the discount rate at the lower end and not used representative rates for the period only.

It should be noted that interest rates have increased in China toward the end of the investigation period and BlueScope anticipates that this trend should be reflected in the discount rates used by Customs and Border Protection in allocating the subsidy across the sales of the goods manufactured in the assets to which the subsidy (grant) applies.

(c) TAGAL – Countervailable subsidies

The TAGAL Exporter Visit Report (“the Report”) confirms that TAGAL is a limited liability joint venture company with the following shareholders:

- Angang Steel Company Limited (ANSTEEL), 50 per cent; and
- ThyssenKrupp Steel Europe AG (TKSE), 50 per cent.

The Report also states that TAGAL purchases 100 per cent of its value added Hot Rolled Coil (“HRC”) purchases from its parent companies ANSTEEL and TKSE, with 95 per cent of TAGAL’s value added HRC purchases from ANSTEEL over the investigation period used in the manufacture of galvanised steel. However, BlueScope steel understands that TAGAL do not purchase HRC steel as feedstock for their galvanising lines. TAGAL in fact purchase Cold Rolled Full Hard (“CRFH”) coil steel as feedstock for their galvanising lines.

CRFH is an intermediate steel product that results from the further processing of HRC in that the HRC is ‘Pickled’ (cleaned of surface scale) and side trimmed to the final customer specified width on a “Pickle Line” then it is cold reduced to the final customer’s specified base metal thickness via a tandem cold rolling mill or reversing mill.

This resultant Cold Reduced Full Hard (CRFH) product is the standard feedstock for all galvanising lines.

This TAGAL exporter visit report does not reflect the actual TAGAL raw material purchases and operations.

It is stated in the Report that Customs and Border Protection tested the arm’s length nature of TAGAL’s HRC (CRFH) purchases. The comparison was made with ANSTEEL’s “other domestic customers”. However, Customs and Border protection has determined that ANSTEEL has received a countervailable subsidy in the form of coking coal at less than adequate remuneration and as such, all of ANSTEEL’s prices for its domestically manufactured HRC and (CRFH) would be influenced by the raw material input being at a discount price to a true market price for coking coal.

Customs and Border Protection has failed to take this factor into account in assessing the purchase price for 95 per cent of TAGAL’s HRC (CRFH) purchases from its joint venture parent ANSTEEL during the investigation period.

The benefit that ANSTEEL has received from the countervailable subsidy of coking coal at less than adequate remuneration has passed through to TAGAL’s HRC (CRFH) purchase price and should be reflected as the receipt of a countervailable benefit in the HRC (CRFH) purchased by TAGAL. It is not clear from SEF No. 193 whether TAGAL was treated as an integrated producer (due to its 50 per cent ownership by ANSTEEL) or whether it was assessed as a non-integrated producer that received a benefit under Program 1. In the absence of any reference to TAGAL receiving a benefit under Program 1, it would seem that TAGAL has been considered an integrated producer.

BlueScope is seeking a review of the Delegate's decision to not include within TAGAL's range of countervailable subsidies an amount for the benefit received in value added HRC (CRFH) purchases from its parent company reflective of the countervailable subsidy that ANSTEEL received from its purchases of coking coal at less than adequate remuneration.

Impact of revised subsidy benefits

The review of the Delegate's decision concerning:

- the correct benchmark to use for coking coal under Program 2;
- the correct allocation of the subsidy programs 30, 31 and 33 for ANSTEEL; and
- the inclusion of a subsidy benefit to TAGAL in its beneficial CRFH purchase price from its parent ANSTEEL to reflect coking coal at a market price,

will result in a change to the determined aggregate subsidy amounts received by ANSTEEL for its exports of galvanised steel and aluminium zinc coated steel, and for TAGAL for its exports of galvanised steel.

As the correct changes are likely to increase the aggregate subsidy amount above the 2 per cent negligible volume threshold, BlueScope requests that the Review Officer rescind the termination decisions in respect of ANSTEEL and TAGAL. All future exports of galvanised steel and aluminium zinc coated steel to Australia by ANSTEEL, and galvanised steel exports to Australia by TAGAL should be the subject of countervailing measures.