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To	Mr Graham McDonald, Member - Anti-Dumping Review Panel
From	Andrew Percival
Date	5 March 2014
Subject	**Review - Hot Rolled Plate Steel exported from the People's Republic of China**

Dear Mr McDonald, **Non-Confidential**

We act for Shandong Iron and Steel Company Limited, Jinan Company (**JIGANG**).

We refer to BlueScope Steel Limited's (**BlueScope Steel**) application for a review of the decision of the Minister to publish a countervailing duty notice in relation to hot rolled plate steel, including quenched and tempered greenfield steel, exported from the People's Republic of China.

Essentially, BlueScope Steel's grounds for a review of that decision are:-

a) the use of export prices of coking coal exported from China as the benchmark for determining whether coking coal is sold at less than adequate remuneration in China is not appropriate as it allows for an understated subsidy margin; and

b) exports of Quenched and Tempered Greenfield Plate Steel (**Q&T Plate Steel**) caused material injury to BlueScope Steel during the investigation period.

We submit that, for the reasons set out in this submission, BlueScope Steel's contentions are without substance. We also submit that, for the reasons set out in this submission, the Commission's recommendation to the Minister in its Report No. 198 that JIGANG's exports be exempt from countervailing duties be given effect.

1. Coking Coal Benchmark

BlueScope Steel refers to a previous decision by the Anti-Dumping Review Panel (**Panel**) that the use of export prices of coking coal exported from China was not appropriate. While not commenting on the Panel's decision in that review, what may be an appropriate benchmark in one investigation may not be a suitable benchmark in another. Consideration of what is an appropriate benchmark in an investigation must turn on the particular circumstances and facts of each investigation.

In this investigation, BlueScope Steel contends that Chinese manufacturers of plate steel must use a blend of low grade coking coal and premium hard coking coal. No evidence is provided by BlueScope Steel to support that contention.

JIGANG provided the Anti-Dumping Commission (**Commission**) with details of its purchases of coking coal, all of which were purchased [redacted] and that information was verified by the Commission.

On 20 August 2013 we provided a submission to the Commission regarding the suitability of export prices and import prices of coking coal as benchmarks in the normal value

calculations, assuming that such a benchmark was required because of a "particular market situation, which, it was submitted, did not in fact exist: see **attached**.

In that submission it was contended, amongst other things, that a comparison of imported coking coal prices with domestic prices for coking coal of similar grade shows that they are comparable and, consequently, that domestic prices of coking coal are competitive, market prices. Were this not the case, then imports presumably would not be able to compete with domestically sourced coking coal of similar grades.

Consequently, we concur with BlueScope Steel that export prices for coking coal exported from China were not suitable for use as a benchmark for the reasons given in that submission to the Commission.

However, the point of departure with BlueScope Steel's contention is that import prices of premium hard coking coal would be relevant only if Chinese manufacturers of plate steel used domestically sourced premium hard coking coal in the manufacture of plate steel. If not, then import prices of premium hard coking coal would not be relevant as a benchmark.

More importantly, as the Commission was advised, our client uses [redacted] different types of coking coal in its manufacture of plate steel, [redacted]. Consequently, there would need to be identified a suitable benchmark for each such grade. We do not know whether the Commission obtained information during the investigation on import prices for coking coal of the equivalent grades to that used by our client in the manufacture of plate steel.

Whether or not the Commission obtained such information is, in our view, irrelevant. This is for two reasons.

First, our client uses, as part of its plate steel production process, a process known as the pulverised coke injection (PCI) system. This has the effect of JIGANG using less coking coal in its production process as well as prolonging the life of its coal batteries, which reduces its costs in producing plate steel, as has been submitted to the Commission. This reduces the amount of coking coal used to produce a tonne of plate steel from the alleged [redacted]% of tonne of coking coal to [redacted]% of a tonne of coking coal. This process not only reduces the amount of coking coal required to produce a tonne of plate steel but also makes the grade of coking coal used in this process, we are instructed, largely irrelevant.

Second, because the use of a benchmark in the normal value calculation is based on the assumption that a "particular market situation" exists in China in relation to the sale of coking coal rendering domestic selling prices unsuitable for use in calculating normal values. For the reasons that we and others have given to the Commission, no such "particular market situation" exists: see in particular Bisalloy's submission of 21 August 2013.

We submit that there is no need for recourse to a benchmark price for coking coal as there is no basis for calculating a constructed normal value pursuant to s. 269TAC(2)(c) of the *Customs Act 1901* because neither prices of coking coal and plate steel sold in China are influenced by the Government of China but, rather, both are competitive, market prices. Consequently, our client is not in receipt of a countervailable subsidy in the form of artificially low coking coal prices.

The consequences of the reduced proportion of coking coal to produce a tonne of plate steel, the reduced costs and, even the benchmarking the domestic price of coking coal against relevant benchmarks, is that BlueScope Steel's allegations are without substance and it is clear that JIGANG is not being subsidised by a countervailable subsidy.

2. Q&T Plate Steel and Material Injury

In its application, BlueScope Steel contends that the Commission's analysis on whether exports of Q&T Plate Steel caused material injury to BlueScope Steel was faulty in that it only assessed the price related injury incurred by BlueScope steel and did not take into account "*the 8,348 tonnes of lost volume that BlueScope would have otherwise produced and sold*".

This contention assumes that Bisalloy Steel Group Limited (**Bisalloy**), which is the sole Australian customer of Q&T Steel Plate, would have purchased Q&T Plate Steel from BlueScope Steel and no one else if the JIGANG export price had been higher (i.e. an unsubsidised price). No reason was given why this would be the case.

In its Report the Commission noted that Bisalloy acquired its requirements of Q&T Steel Plate from JIGANG and POSCO, as well as from BlueScope Steel. The Commission also made the following finding:-

> "*Furthermore, the Commission compared POSCO's undumped and unsubsidised export price of Q&T green feed in the investigation period to JIGANG's export price in the same period and found them to be relatively similar.*" (at page 78 of Report 198)

This would suggest that if JIGANG's export price of Q&T Plate Steel were to increase, then Bisalloy presumably could and would source its requirements from POSCO, whose prices were relatively similar to JIGANG, rather than source its requirements from BlueScope Steel whose prices presumably were materially higher. In such circumstances it could not be sensibly argued that BlueScope Steel "lost 8,348 tonnes".

Given the [redacted] arrangements between JIGANG and Bisalloy as outlined in JIGANG's response to the exporter questionnaire, the likelihood of Bisalloy changing its sourcing of its requirements of Q&T Plate Steel from JIGANG and POSCO to solely BlueScope Steel would seem remote. We note that Bisalloy submitted to the Commission its approach to sourcing Q&T Plate Steel.

We also submit that if the sole product differentiator for a producer of a particular product is price, which is what dumping and subsidy investigations are essentially all about, then the producer of the domestic producer of that product faces the inevitable issue the somewhere in the world, someone in the world will produce the same or similar product at a lesser, undumped and unsubsidised price. This is an issue facing Australian manufacturers. This has nothing to do with dumping or subsidies.

In addition, BlueScope Steel also has argued that the "loss' of 8,348 tonnes cannot be considered "immaterial". The issue here is not whether such "loss" is immaterial but, rather whether it is material.

As noted in its Report, the Commission was advised by Bisalloy that Q&T Plate Steel constituted less than 5% of BlueScope Steel's steel plate production. Further, the Commission stated in its Report that:-

> *"..., the Commission calculated the potential loss of Q&T green feed revenue using JIGANG's subsidy margin rate of 2.6%. The Commission found that the potential loss of revenue was less than 2% of total green feed revenue in the investigation period."* (at page 78)

The Commission also found that the proportion of total revenue of the goods using JIGANG's subsidy margin was less than 1%.

These findings of the Commission would not suggest that injury, if any, incurred by BlueScope Steel during the investigation period from exports of Q&T Plate Steel from China would or could have been material to its plate steel business.

Finally, we note that while JIGANG's exports of Q&T Tempered Steel increased in 2010 to 2011 and BlueScope Steel's sales declined during this period, BlueScope Steel's sales of Q&T Plate Steel increased in 2011 to 2012 while exports by JIGANG remained stable. If price was the sole reason to source product from one supplier and not another, presumably JIGANG's exports volumes would have, or should have, increased in 2011- 2012 instead or remaining stable if its prices were undercutting BlueScope Steel's prices. No explanation was provided by BlueScope Steel in its application as to why this anomaly existed.

3. Conclusion

It is evident for the reasons set out in this submission and in submissions and information provided to the Commission that JIGANG is not in receipt of a countervailable subsidy and its exports of Q&T Plate Steel are not causing material injury to BlueScope Steel.

We note that the Commission in its Report No. 198 recommended to the Minister that he declare:

> *"in accordance with s.269TJ(2), by public notice, that section 10 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from China, except JIGANG after the date of publication of the notice"* (see page 91 of the Commission's Report)(underlining added)

We concur with that recommendation and that JIGANG be exempted from the imposition of countervailing measures.

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To	Joanne Reid, Director Operations 2, Australian Anti-Dumping Commission
From	Andrew Percival
Date	20 August 2013
Subject	**Anti-dumping and subsidy investigation - exports of plate steel from the People's Republic of China**

Non-Confidential

Dear Joanne,

We refer to the subsidy margin calculation for our client Shandong Iron and Steel Company Limited, Jinan Company (**JIGANG**) and, in particular, the use of Chinese export prices for coking coal in such calculations and the use of an amount provided by BlueScope Steel as to the amount of coking coal used in the production of a tonne of plate steel.

These issues are addressed below.

1. Chinese export prices in normal value calculations

As you would no doubt be aware, there were export quotas and other measures on exports of coking coal from China during the investigation period. This had the effect of making the export prices of coking coal from China considerably higher. For example, it has been widely reported that, with the elimination of export taxes and quotas on 1 January 2013, the price of coking coal being exported from China fell from around US$400 per tonne FOB to around US$275 per tonne FOB: see **attached**.

Clearly such prices are not market prices and this is further reflected in the small volumes of coking coal being exported from China during the investigation period.

On the information provided by the Government of the People's Republic of China in this investigation concerning the prices at which coking coal is exported from and imported into China, it is evident that there is a significant difference in pricing between import and export coking coal prices: see **confidential attachment**. That difference was due to the effect of export taxes and quotas that existed during the period of investigation but have since been removed. The resulting fall in export prices of coking coal from China has brought such prices more in line with global prices, including the price paid for coking coal being imported into China. This price differential during the period of investigation reveals the unsuitability of export prices of coking coal for use in the constructing normal values.

We note that imports of coking coal into China would be pursuant to arms length transactions and at market prices. There is no suggestion or evidence that this is not the case. Further such imports presumably would actually be used in the production of plate steel amongst other things.

We note the Commission's contention that "*import prices were not suitable as a benchmark due to the lack of import penetration of coke and the likelihood that import prices were equally affected by the government influences on prices*" (page 162 of the statement of

essential facts). We do not understand the Commission's contention. It is unclear how the Government of China could influence coking coal prices being purchased in the global market or the relevance of the degree of penetration of imported coking coal has to the price of coking coal being imported.

In this regard, we note that China has overtaken Japan as the largest importer of coking coal, with imports of coking coal exceeding 180 million tonnes in 2011 while Japan imported 175 million tonnes in that year according to Reuters. Also, the metallurgical coking coal used in the production of steel in China is primarily imported from Australia and represented 63% of Australian coal exports to China in 2010. Is it the case that prices paid for Australian coking coal are not market prices and somehow such prices have been influenced by the Government of China and, if so, how and where is the evidence?

Finally, we note that coking coal prices are aligned with demand for steel and as the demand for steel falls, the demand for coking coal falls, as also does the price for coking coal. In this regard, the US Energy Information Administration has reported that the average price of metallurgical coal exports to China for January-March 2012 to be US$169.15 per short ton and for October-December 2012 to be US$124.43 per short ton: see

http://www.eia.gov/coal/production/quarterly/pdf/t12p01p1.pdf

Given that a short ton is less than a metric tonne, it is reasonable to conclude that the equivalent price per metric tonne would be less. These prices correspond with the import prices into China. Further, those prices are comparable to export prices to other Asian countries with export prices to South Korea lower than those to China. Clearly all such prices and domestic prices in China are market prices.

It is our submission, therefore, that the prices of coking coal being imported into China should be used in the subsidy margin calculation and not export prices as import prices reflect actual global market prices. If you disagree, please let us know and provide evidence that import prices of coking coal do not reflect market prices, including those charged by Australian coking coal producers who export to China.

Also, a comparison of the prices of imported coking coal with the price at which coking coal is purchased in China establishes that they are comparable, evidencing the fact that the prices at which coking coal is purchased in China are competitive market prices. Were this not the case then imports would not and could not compete with domestically sourced coking coal, which is clearly not the case

Accordingly, we submit that our client does not receive a subsidy as preliminarily found in the statement of essential facts and, further, if the prices for imported coking coal are used in the subsidy margin calculation, then it would be determined that no subsidy was received by our client.

2. BlueScope Steel's claim regarding the amount of coking coal used to produce a tonne of plate steel

We note that the Commission has used BlueScope Steel's claim that [redacted]% of a tonne of coking coal is used to produce a tonne of plate steel in the subsidy margin calculation.

We note that this amount has not been raised with our client nor verified that this is the amount of coking coal our client actually uses to produce a tonne of plate steel.

Our client does not use [redacted]% of a tonne of coking coal to produce a tonne of plate steel. It uses less. It actually uses [redacted]% of a tonne of coking coal to produce a tonne of plate steel.

Attached is a table setting out the amount of cooking coal it used to produce plate steel during the investigation period.

The reason why it uses less coking coal to produce a tonne of plate steel is because our client uses [redacted] in its production process, which has a number of benefits including reducing the amount of coking coal being used, as well as prolonging the life of the coal batteries, as is publically recognised.

The conclusion is that our client is using an efficient process in plate steel manufacture that reduces coking coal consumption and increases the life of coking coal batteries, leading to reduced manufacturing costs. This analysis does not appear in the statement of essential facts and the question is why not?

Please provide your confirmation that the factor of [redacted]% will be used in subsidy calculation and, if not, provide reasons and evidence of why not?

3. Subsidy Margin Calculation

In light of the above, **attached** is a confidential spreadsheet setting out revised subsidy margin calculations for our client that demonstrates that if import prices are used or if actual consumption of coking coal prices are used or both, the subsidy margin is negligible and not countervailable.

4. Conclusion

This investigation must be terminated in relation to our client. Please confirm that both the dumping and subsidy investigations will be terminated in relation to our client.

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UPDATE 2-China to scrap 40 percent export duty on metallurgical coke

Tue, Dec 18 2012

* Scrapping of coke export duties from Jan. 1 likely to boost exports

* Higher exports to threaten regional exporters

* Higher coke production to boost coking coal consumption

* Industry awaits annual export quotas (Adds details)

By Ruby Lian and Fayen Wong

SHANGHAI, Dec 18 (Reuters) - China will scrap an export duty of 40 percent on metallurgical coke, a steelmaking raw material, from next year, an official with the Ministry of Finance said, in a move that could spark a surge in Chinese exports and threaten regional vendors.

China used to be the world's largest exporter of coke, but its exports have almost dried up since 2008, when Beijing raised the export duty from 25 percent in a bid to reduce pollution.

Still, an end to the tough tariffs could send Chinese exports jumping to 8 million to 10 million tonnes in 2013, up from an expected 1 million this year, which would be a game changer for the regional seaborne market.

"China's annual coke production is at about 420 million tonnes this year and the domestic market is oversupplied. The change in taxes will encourage coke producers to send more stocks abroad," said Ma Cheng, an analyst with Galaxy Futures in Beijing.

"It will weigh on regional prices but prices won't collapse because the price of coke is largely tied to the price of coking coal."

Coking coal is a key ingredient in making metallurgical coke, largely used as a fuel in blast furnace steel production.

The move to scrap coke tariffs followed a ruling by the World Trade Organisation in July last year that China's export curbs on several raw materials breached free-trade rules. The body has set a deadline of December 31 for Beijing to act.

A combination of overcapacity and tepid demand in the domestic market has also caused heavy losses to Chinese coke makers, prompting them to appeal to Beijing to cut duties and so increase the number of their sales outlets.

Still, it is not clear if Beijing will adjust the export quota for producers and traders, although analysts said there was little need to do so, since actual shipments have been far lower than the annual cap.

The 2012 quota was set at 9 million tonnes but total exports of coke and semi-coke in the year to October were only 907,000 tonnes, a fall of 71 percent from year ago. Annual exports stood at around 10 million to 15 million tonnes between 2000 and 2007.

"There will be no export tariff (for coke) starting from 2013," said the official, who declined to be identified as he was not authorised to speak to media.

WEIGH ON PRICES

Scrapping the hefty export tariff would boost the competitiveness of Chinese supplies and pressure regional prices, already hit this year by the global economic slowdown.

Coke prices from China's port of Tianjin with 62 percent CSR material are hovering at around $400 a tonne on a free-on-board basis. The tariff removal could send prices down to around $275, analysts said.

That compares with FOB prices of around $280 a tonne for Japanese supplies. Increased Chinese supplies may also pose competition from Russian and Ukrainian exporters.

China's coke producers, now operating at around 70 percent of capacity, would be likely to ramp up production as foreign markets become more accessible.

A rise in Chinese coke exports to 15 million tonnes will prompt a rise of around 20 million tonnes of coking coal, said Helen Lau, a senior analyst at UOB-Kay Hian.

Still, an increase in coking coal demand will mostly benefit Chinese and Mongolian coking coal producers as most Chinese coke ovens are located in the inland provinces of Shanxi and Hebei, which makes Australian and U.S. imports uneconomical, Lau said in a note. (Editing by Clarence Fernandez)

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UPDATE 3-China overtakes Japan as world's top coal importer

Thu, Jan 26 2012

* China overtakes Japan as biggest coal importer for 1st time

* Unclear whether it will maintain position in 2012

* 2011 China coal imports up 10.8 pct yr/yr (Adds graphic, details)

By Osamu Tsukimori

TOKYO, Jan 26 (Reuters) - China overtook Japan as the world's top coal importer for the first time in decades last year, partly driven by robust Chinese demand and as Japan's imports fell after steelmakers curbed output and a huge quake damaged some coal-fired power plants.

Japan had held the No.1 position since at least 1975 until 2010, the International Energy agency's Coal Information showed.

China, also the world's biggest coal producer and consumer, imported 182.4 million tonnes of the fuel in 2011, 10.8 percent higher than a year earlier, data from the country showed.

Japan's customs-cleared imports fell 5.1 percent to 175.2 million tonnes last year, hurt by slack demand for coking coal as steelmakers curbed production.

Hirofumi Furukawa, expert at Japan Coal Energy Center, said China was likely to keep No.1 position this year.

"China's domestic production will be managed by the government. The costs are rising and when it comes to competition, foreign coal is cheaper, so there will be pressure for imports," Furukawa said.

"Some say it will rise to 200 million tonnes (in 2012). Japan, on the other hand, is expected to see steady imports (in 2012)."

China's coal consumption is expected to remain robust as new coal-fired power generation comes onstream and demand from the cement industry, the second-largest driver of thermal coal consumption, is also seen rising as the government makes a strong push to urbanise.

A Reuters poll last month, however, showed the country's coal imports are expected to grow at a slower pace in 2012, as domestic appetite moderates and home production rises.

In January-November, Japan's coking coal imports dropped 9.4 percent to 63.5 million tonnes from a year ago, according to Reuters calculations.

Japan's imports of thermal coal used in power generation, meanwhile, edged down 0.4 percent to 101.2 million tonnes in 2011 as the magnitude 9.0 earthquake in March damaged coal-fired power plants along the country's northeast coast.

The March quake is expected to lower Japanese utilities' consumption of thermal coal by 0.2 percent in the year ending March 31, the Institute of Energy Economics, Japan (IEEJ) projected last month.

If nuclear reactors did not resume operations amid public anxieties following the Fukushima plant disaster, thermal coal demand could jump by 8.3 percent in 2012/13, IEEJ said.

Thermal coal demand should decline by 7.2 percent in 2012/13 if reactors restarted from next summer, IEEJ added.

(Additional reporting Chen Aizhu in BEIJING; Editing by Joseph Radford and Sugita Katyal)