

PUBLIC RECORD

SUBMISSION ON BEHALF OF ONESTEEL COIL COATERS PTY LTD TO THE ANTI-DUMPING REVIEW PANEL CONCERNING A REVIEW OF A MINISTERIAL DECISION TO PUBLISH DUMPING DUTY NOTICES APPLYING TO ALUMINIUM ZINC COATED STEEL EXPORTED FROM THE REPUBLIC OF KOREA

Introduction

1. Coil Coaters Pty Ltd (**Coil Coaters**) is an interested party directly concerned with the importation into Australia of certain Aluminium Zinc Coated Steel (**Unchromated Steel**) from Taiwan, a person who uses the goods the subject of the reviewable decision in the production or manufacture of other goods in Australia and an applicant in this matter.
2. We refer to the original statement (**Statement**) by Coil Coaters contained in Appendix A to an Application of 4 September 2013 to the Review Panel in relation to the above matter. The purpose of this submission, made pursuant to s 269ZZJ of the *Customs Act 1901 (Cth)* (**Act**), is to elaborate briefly on certain matters raised in our client's statement and to identify the terms of an exclusion from a substituted dumping duty notice for Unchromated Steel.

Material Injury and Causation

3. Some issues related to material injury and causation were addressed at paragraphs 17 – 19 of Coil Coaters' Statement. We also wish to draw to the attention of the Review Panel a further matter that compromises the Commission's findings on these issues.
4. In its analysis of the Australian market for aluminium zinc coated steel the Commission claimed that total annual sales amounted to about 220,000 tonnes¹. That claim may or may not be technically accurate depending on how a sale is defined and whether BlueScope sells or transfers the product to affiliated users. It is, however, grossly misleading as an indicator of the size of the market for aluminium zinc coated steel because it ignores all the product manufactured by BlueScope as feedstock for use by related entities in the production of painted materials. In fact the inclusion of the graph at

¹ REP 190, pp 48 and 52.

page 126 of Report 190 makes it clear that the Commission was obviously aware of the details of this additional production and careful analysis of the relationship between that graph and the alleged market estimate graph at page 52 of the Report reveals that the true size of the market is of the order of 600,000 tonnes. This calculation accords with ATM's own estimate based on market intelligence and an estimate set out in POSCO's submission to the Review Panel.²

5. We agree with the submission to the Review Panel by POSCO in this matter that the fact that a substantial proportion of a particular market is shielded from import competition is highly relevant to a proper and robust analysis of material injury and its causes and the gross underestimation of the market by the Commission in its analysis invalidates all of its findings and recommendations relating to injury. It also undermines the Commission's decision to consider the cumulative effect of allegedly dumped imports. Obviously in relation to the market for Unchromated Steel for use in the production of painted material it was not open to the Commission to conclude, as they purported do, that *...the conditions of competition between imported and domestically produced like goods are similar*.³
6. At a detailed level the failure of the Commission to take account of the applicant's production of feedstock for painted materials has contaminated its findings that the major injury indicators are loss of sales volume, reduced sales revenue, price depression, price suppression and reduced profit and profitability. Absent any consideration of the key performance indicators relating to the applicant's total production of aluminium zinc coated steel we submit that all those findings, and the recommendations based on them, must be set aside.
7. In particular because of the Commission's failure to take account of the applicant's production of a major proportion of the goods under consideration and examine the details of the applicant's internal 'pricing' of Unchromated Steel, there is no evidence on which to base an informed opinion on the central injury issues of profit and profitability. There is evidence before the Commission that the margin between the applicant's cost to produce Unchromated Steel and the selling prices of its painted products is very substantial. In these circumstances the allocation of profits between the applicant's various entities can profoundly affect the assessment of the true underlying position of

² POSCO – Application for Review: Attachment A, p.23

³ REP 190, p.96

the local producer. There is no indication that the Commission has undertaken that essential assessment.

Dumping Duty Notice

8. For the reasons set out in paragraphs 17 – 19 of Coil Coaters' Statement dealing with the absence of any evidence of material injury, we request that the Review Panel recommend to the Minister that he revoke the reviewable decision and substitute a new specified decision in the form of a new dumping duty notice that does not apply to our client's importations of Unchromated Steel. We submit that the goods to which the new substitute notice applies should be described as follows:

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, excluding products that are not chromated.

9. We further submit that in accordance with the observations of Nicholas J in *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870 a complementary notice be published under s 269TL of the Act identifying the goods excluded from the proposed new dumping duty notice as being goods to which the Minister has decided that s 8 of the *Customs Tariff (Anti-Dumping) Act 1975* does not apply.

Ascertained Export Price (AEP) - Currency

10. We refer to our clients earlier observations and submission at paragraphs 25 – 27 of the Statement and, to illustrate the impact of denominating the AEP in US dollars, we attach a confidential spreadsheet based on a recent importation by Coil Coaters that demonstrates the severe adverse impact impacts on an importer during a period of AUD depreciation. We stress again, however, that the reverse applies during an appreciating phase producing the paradoxical outcome that an Australian manufacturer of goods subject to a dumping notice will not only suffer the usual erosion of its competitive position due to a strengthening AUD but also the disadvantage of a reduction in the effectiveness of anti-dumping measures.

11. Clearly, we submit, the Minister should revert to the more traditional practice of ascertaining export price in Australian dollars if, despite Coil Coaters's other submissions, the trade measures remain in place.



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