

PUBLIC RECORD

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The Director – Investigations 2
Anti-Dumping Commission
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Canberra ACT 2601
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**Case 706 – Zinc coated (galvanised) steel exported
from the Republic of Korea and the Socialist Republic of Vietnam**

Dear Director,

This submission is made on behalf of Dongkuk Coated Metal Co., Ltd (DKCM), a cooperating exporter of zinc coated (galvanised) steel from the Republic of Korea to Investigation No. 706. It responds to the submission of BlueScope Steel Limited (BlueScope) dated 20 August 2026. BlueScope asks the Commission to find that a particular market situation exists in the Korean market for galvanised steel, to treat Korean home market sales as unsuitable for the purposes of subparagraph 269TAC(2)(a)(ii) of the Customs Act 1901 (the Act), to construct normal values for Korean exporters under paragraph 269TAC(2)(c) using an external hot rolled coil (HRC) benchmark, and to make a preliminary affirmative determination (PAD) with securities under section 42. DKCM opposes each request.

The market situation claim was not made in the application

Subsection 269TAC(1) states the primary rule, that the normal value of 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 or, if like goods are not so sold by the exporter, by other sellers of like goods.*

A departure on market situation grounds is available only where the Minister is satisfied that the normal value cannot be ascertained under subsection (1) *because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1).* Only then does the constructed method in paragraph 269TAC(2)(c) become available.

The Manual describes when the Commission engages its market situation procedure:

When relevant and reasonably reliable evidence supporting the proposition that domestic selling prices are unsuitable for normal values is set out in the application, and an investigation is initiated, the Commission will adopt the following procedures in order to ensure interested parties have an opportunity to consider the claims and present evidence.

The procedures that follow are specific. The Commission notifies the government of the country of export and the exporters of the claims and of the evidence provided, inserts additional questions titled "Market Situation" into the exporter questionnaire, and prepares a separate "Market Situation" questionnaire for the government.

The expression "market situation" appears nowhere in BlueScope's application, and the Consideration Report does not assess one. What the Consideration Report records instead is the reason BlueScope gave for constructing Korean normal values:

BlueScope stated that it does not have access to reliable domestic selling price information for like goods in Korea. Accordingly, BlueScope has constructed normal value under section 269TAC(2)(c).

That is a statement about the information available to the applicant. It is not an assertion about the condition of the Korean market. The Commissioner assessed it on that basis, concluding that BlueScope's use of its own costs, adjusted for Korean labour, was a reasonable basis for estimating Korean cost data given the information available to BlueScope.

DKCM prepared and lodged a full questionnaire response against an investigation in which no market situation had been alleged. The Government of Korea has not been notified of any such claim, has received no government questionnaire, and has had no occasion to respond.

Where an applicant does not raise a market situation in its application, and raises the claim for the first time at day 62, the Commission should reject that claim. To proceed otherwise would deny DKCM and the Government of Korea the opportunity that procedure exists to give them.

The Commission has examined the Korean market for these goods

Report No. 611

REP 611 concerned the continuation of anti-dumping measures on zinc coated (galvanised) steel exported to Australia from China, Korea and Taiwan. It is the closest thing on the Commission's record to a settled position on the question BlueScope now raises.

On the market situation question the Commission said this:

The commission did not undertake the same examination for the Korean and Taiwanese markets because the commission has not found previously a particular market situation in these markets. The applicant has made no allegation that this had changed.¹

The Commission went further. In assessing the Chinese market situation, it needed an undistorted comparator for HRC costs, and it selected Korea:

As a result of previous cases and after considering the evidence before it for this inquiry, the commission considers that normal competitive market conditions, absent a particular market situation prevail in the Korean and Taiwanese domestic markets for HRC and that purchases of HRC in these markets are not influenced by prices in China.²

BlueScope wants the Commission to now accept the opposite of that statement, for the same goods from the same country.

Report No. 558

¹ Report No 611, section 6.2.2, p 32.

² Report No 611, Non-confidential Appendix B, section B5, p 125.

Korea was treated the same way in REP 558, which concerned aluminium zinc coated steel from Korea, Taiwan and Vietnam. A market situation was alleged there in respect of Vietnam and rejected, and Korean HRC purchase prices supplied the yardstick:

Over the course of the investigation period, Vietnamese prices were 1% higher than those of the ROK and Taiwanese prices.³

BlueScope lists REP 611 among reports said to show that distortion affecting HRC is relevant to the market situation assessment for downstream products. REP 611 did make a market situation finding in respect of China. On Korea it decided the opposite of what BlueScope now asks, and the submission does not disclose that.

The material relied on to displace REP 611 is REP 658, SEF 689 and SEF 679. REP 658 concerned hot rolled coil steel exported from China, and galvanised steel was not the product under consideration. SEF 679 has since been superseded with the final report published three days before BlueScope lodged its submission. The final report carries forward the passage on Korea without change. In selecting a benchmark, the Commission considered Korean HRC prices and noted that *the Korean HRC prices are likely to have been influenced by the GOC*⁴. It then chose Japanese prices, finding that *Japan's HRC prices are not influenced by the GOC or by any other thirty party and therefore is an appropriate benchmark*⁵. That is a ranking of candidate surrogates for pricing Chinese production, and it is expressed as an effect of the Government of China. It is not a finding about the situation in the Korean market.

BlueScope relies on SEF 689, published 22 May 2026. The Commissioner published the final report in that inquiry, Report No 689, on 23 July 2026, four weeks before BlueScope's submission was lodged. The submission cites the superseded document and does not refer to the report at all.

In the final report, in determining Korean normal values for uncooperative and all other Korean exporters, the Commission constructed normal value from data in Report No 590, with adjustments that included:

using the MEPS Korean price for steel coils (black and HDG) in this inquiry period⁶

The Commission took the Korean steel coil price as the input cost, without adjustment, without an external benchmark and without any suggestion that a market situation affected it. The report BlueScope relies on is therefore the Commission's most recent occasion to treat Korean coil prices as distorted for the purpose of a Korean normal value, and it did the opposite.

A market situation is assessed at the level of the goods

The Commission has stated its own approach in clear terms:

In line with legislative requirements, the commission's market situation assessment is undertaken at the level of the goods being investigated, namely zinc coated (galvanised) steel.⁷

The Manual sets the same limit on input cost arguments:

³ Report No 558, Appendix A, section A5, p 121.

⁴ Report No 679, Appendix A, section A.7, p 105.

⁵ Report No 679, Appendix A, section A.7, p 105.

⁶ Report No 689, section 6.6.2, p 63.

⁷ Report No 611, Non-confidential Appendix B, section B3, p 109.

The mere existence of any government influence on the costs of inputs would not be enough to make sales unsuitable. The Commission looks at the effect of this influence on market conditions and the extent to which domestic prices can no longer be said to prevail in a normal competitive market. It should be noted that government influence on costs can only disqualify the sales if those costs can be shown to be affecting the domestic prices.

BlueScope's first channel is an HRC cost channel. Its answer to the requirement that the effect be shown in the prices of the like goods is Confidential Attachment 3, described as an assessment of Korean galvanised steel pricing and supply conditions over FY2022 to FY2025.⁸

In the public version every figure in that assessment has been removed. Import volumes, import shares, penetration percentages, Korean domestic prices and Chinese import unit values are each replaced by a bracketed marker. What remains is the assertion and the conclusion drawn from it. No interested party can test whether the price series are comparable, what the trade statistics measure, whether the products behind them are model matched, or whether the movements are of the magnitude claimed.

Subsection 269ZJ(2) requires a person claiming confidentiality to ensure that a summary is given to the Commissioner for inclusion in the public record *that contains sufficient detail to allow a reasonable understanding of the substance of the information*. Indexed series, ranges or percentage movements would meet that standard without exposing anything commercially sensitive to BlueScope. DKCM asks the Commission to require such a summary, and reserves its position on the substance of Confidential Attachment 3 until one is available.

The problem is not only the absence of a summary. On BlueScope's own description, the information withheld is data about the Korean market: Korean hot rolled coil prices, Korean galvanised steel prices, the unit values of Chinese imports into Korea, and Korean import volumes, all drawn from trade statistics. Nothing in that description relates to BlueScope's own costs, prices or customers. The public version of the submission gives no reason why publishing the price of hot rolled coil or galvanised steel in Korea would give an advantage to a competitor of BlueScope, or adversely affect BlueScope's business or commercial interests. If the source is a licensed subscription service, the terms of the licence may restrict republication of the raw series. That would go to the form of the summary, not to whether one is given.

DKCM therefore asks the Commissioner to advise BlueScope that he disagrees with its claim that this information is confidential or would adversely affect its business or commercial interests. BlueScope makes the claim in relation to its application under subsection 269TB(1), and this investigation was initiated on that application. Subsection 269ZJ(5) then provides that where:

(b) the Commissioner indicates to the party that he or she disagrees with the claim;

but, despite the opinion of the Commissioner, the person making the claim will not:

(c) agree to the inclusion of the information in the public record; or

(d) prepare a summary of the information for inclusion in that record;

the Commissioner may disregard the information unless it is demonstrated that the information is correct.

⁸ BlueScope submission, section II, p 4 and n 3.

If the Commissioner instead agrees with the claim, subsection 269ZJ(6) gives the same result where the person making the claim *will not prepare a summary of the information for inclusion in that record*. So in either case, the Act lets the Commissioner disregard Confidential Attachment 3 in its present form.

It is for BlueScope to justify its claim. Under Article 6.5 of the Anti-Dumping Agreement, confidential information is to be treated as such *upon good cause shown*. The Appellate Body has explained what that requires:

In practice, a party seeking confidential treatment for information must make its "good cause" showing to the investigating authority upon submission of the information. The authority must objectively assess the "good cause" alleged for confidential treatment, and scrutinize the party's showing in order to determine whether the submitting party has sufficiently substantiated its request.⁹

Good cause *cannot be determined merely based on the subjective concerns of the submitting party*.¹⁰ BlueScope has shown no good cause for withholding Korean market prices. DKCM asks the Commissioner to require BlueScope to identify, with supporting evidence, the harm to its business or commercial interests that disclosing the Korean hot rolled coil and galvanised steel price series would cause. The Commissioner should then assess that showing before he gives any weight to Confidential Attachment 3.

Input at the prevailing arm's length price is not a distorted cost

BlueScope's economic proposition is that Korean HRC prices are low because dumped Chinese HRC competes in Korea, and that Korean producers therefore carry a distorted input cost. The Manual addresses that proposition directly, in the chapter dealing with whether costs reasonably reflect competitive market costs:

The concept of a competitive market price is not taken to prevent an exporter buying inputs from arms length suppliers at the prevailing price even if that input had been sold at below cost or dumped.

The Manual explains why it takes that position. A company should not be penalised for a sensible commercial decision to buy inputs at the best possible price, the cost of producing an input cannot ordinarily be verified from a supplier with no reason to cooperate, and dumping inquiries run to a timetable that limits verification.

The Manual also directs attention to what the exporter actually did, providing that *'[t]he purchasing behaviour of the exporter may be examined to determine whether the input has been supplied at a competitive market price*.

DKCM purchases hot rolled steel and zinc. It has reported those purchases transaction by transaction in the worksheet titled "G-7.4 Raw Material Purchases", identified the source of the data for each column, and provided the commercial invoice and proof of payment for the two largest invoices by value for each raw material together with a reconciliation to its purchase ledgers. Those records are available to the Commission for verification in the ordinary way.

⁹ Appellate Body Report, *European Communities – Certain Iron or Steel Fasteners from China*, WT/DS397/AB/R, para 539.

¹⁰ Appellate Body Report, *European Communities – Certain Iron or Steel Fasteners from China*, WT/DS397/AB/R, para 537.

BlueScope anticipates an answer about vertical integration, submitting that integration changes the accounting route by which HRC enters a producer's records without insulating that producer from the opportunity cost of HRC.¹¹ DKCM is a purchaser of substrate, so the argument is not relevant to its position. The Manual in any event gives the same answer to a purchaser and to an integrated producer, because the question it asks is whether the price paid was the prevailing arm's length price, not whether that price was as high as an offshore benchmark.

BlueScope does not allege that DKCM paid anything other than the prevailing arms' length market price for its substrate. Its case is that the prevailing market price was itself too low, because of competition from imports. To accept that case the Commission would have to depart from a position its own Manual states in clear terms, and it would have to do so without the government influence on which the surrounding provisions of that chapter depend.

Import competition is evidence of competition

The centrepiece of BlueScope's new material is that Chinese galvanised steel is the dominant source of Korean import supply, that Chinese import penetration rose across FY2022 to FY2025, and that Korean domestic prices moved closely with Chinese import unit values.

On the Commission's own reasoning the first two of those observations counter the claim rather than provide support for it. In REP 558 the Commission examined import volumes into Vietnam and concluded:

The high level of import penetration indicates a high level of competition within the Vietnamese steel market.¹²

That reasoning formed part of the basis for rejecting a market situation claim. BlueScope now invites the Commission to treat the same circumstances, a large and growing volume of imports competing in a domestic market, as the reason for making one.

The price correlation adds little to its case. Galvanised steel is an internationally traded commodity, and prices in open markets move together because they respond to the same conditions of supply and demand. A correlation between a domestic price and an import unit value is what a competitive market clearing at a common price looks like. It is not evidence that the domestic price has ceased to be a market price.

The theory also has no stopping point. China is the largest steel producer and exporter in the world, and its exports reach virtually every open steel importing economy. If the presence of competitively priced Chinese imports were enough to render a market unsuitable, Japan, Taiwan, the European Union and every other open economy would qualify, and no benchmark would remain that was not itself said to be distorted. Subparagraph 269TAC(2)(a)(ii) is a defined exception to the primary rule in subsection 269TAC(1). An interpretation that effectively cancels the rule whenever an industry claims it is affected by global overcapacity is not one the provision can support.

No government influence in Korea is alleged,

The Manual's market situation framework is built around government influence in the country of export. It asks *whether the impact of the government's involvement in the domestic market has materially*

¹¹ BlueScope submission, section II, p 5.

¹² Report No 558, Appendix A, section A6, p 122.

distorted competitive conditions, and it treats government influence as meaning influence from any level of government.

The substitution methodology BlueScope invokes has the same trigger:

Where a finding has been made that a major cost input is supplied by a government-owned enterprise, or there are other forms of government influence, the normal value should be calculated as the sum of:

a determined (substitute) amount, having regard to all relevant information, for the value of the major cost input supplied by the government-owned enterprise (irrespective of the actual cost incurred by the exporter or producer for that input)

the remaining production costs incurred by the exporter or producer, and

administrative, selling and general costs associated with the sale and profit, had the goods been sold for home consumption in the country of export.

BlueScope alleges no act, policy, ownership interest or intervention of the Government of Korea. Its case is that a foreign government's conduct, transmitted through import competition, has affected Korean prices. The phrase "other forms of government influence" will not stretch to cover that, and the reason lies in what the Manual directs the Commission to do next. The Commission is to *first look to information in the country of export when calculating a price for the major cost input*, and the first substitute source identified by reference to a supplier is *the price of the major cost input supplied by a non-government-owned enterprise in the country of export to the exporter*.

A framework whose first remedy is the in-country price of the input cannot be the framework for a complaint that the in-country price is itself the problem. BlueScope asks for the reverse of what the Manual provides, namely an out-of-country benchmark chosen because it lies outside the region in which the alleged effect is said to operate. No provision of Part XVB and no part of the Manual support that claim.

The two documents BlueScope relies on confirm the point rather than answering it. In REP 689 the Commission recorded that it *has not assessed if there was a particular market situation in China for PP&T in this inquiry period*¹³, and rested the cost adjustment instead on earlier findings about the role of the Government of China in Chinese steel markets, noting that the Government of China had not responded to the Government Questionnaire.¹⁴ The final report in the light gauge steel stud and track investigation is to the same effect. The Commission *has not assessed a particular market situation (PMS) claims*¹⁵ in that investigation. It proceeded instead by examining *whether the records of the cooperative exporter satisfy the requirements of section 43 of the Regulation and Article 2.2.1.1 of the ADA*¹⁶. The distortion it relied on was the particular market situation for HRC in China found in REP 658, which arose *because the selling price of HRC in China was influenced by the GOC*¹⁷.

Every part of the reasoning in both documents concerns the conduct of the Government of China within China. Neither contains an allegation, still less a finding, of conduct by the Government of Korea.

¹³ Report No 689, section 6.4.4, p 47.

¹⁴ Report No 689, section 6.4.4, p 47 and n 81.

¹⁵ Report No 679, section 6.7.3, p 42.

¹⁶ Report No 679, section 6.7.6, p 42.

¹⁷ Report No 679, section 6.7.4, p 42.

BlueScope's claim has no government at its centre at all, which is why it does not fit the provision it invokes.

Suitability requires the Commission to examine whether a proper comparison is prevented

A market situation finding does not end the inquiry. In REP 611 the Commission found a market situation in China and then addressed the further question, expressing its conclusion this way:

because of that particular market situation, sales of like goods in the Chinese domestic market are not suitable for determining a price under section 269TAC(1). This is because the price of such sales does not permit a proper comparison with the export price in determining the dumping margin.¹⁸

The Commission devoted a separate appendix¹⁹ to that analysis., which forms part of the Commission's current practice. The same requirement was the basis on which Australia's conduct was found inadequate in the A4 copy paper dispute. The Panel held:

the ADC was obligated to undertake the necessary additional examination to determine whether, because of the particular market situation, the domestic sales of the individual exporters do not permit a proper comparison of the domestic prices and the export prices.²⁰

That reasoning carried into the Panel's concluding findings, where it recorded that Australia acted inconsistently with Article 2.2 of the Anti-Dumping Agreement when the ADC *disregarded domestic sales of A4 copy paper of Indah Kiat and Pindo Deli as a basis for normal value because of the existence of a "particular market situation" without properly examining whether the domestic sales nonetheless "permitted a proper comparison"*²¹.

The proposition is older than that dispute. The Panel in DS529 set out the reasoning of the GATT panel in *EEC – Cotton Yarn*:

In the Panel's view, the wording of Article 2:4 made it clear that the test for having [recourse to constructed value] was not whether or not a "particular market situation" existed per se. A "particular market situation" was only relevant insofar as it had the effect of rendering the sales themselves unfit to permit a proper comparison.²²

Applied here, both of BlueScope's channels operate on the price of galvanised steel wherever that steel is sold. A lower substrate cost lowers the cost of every coil DKCM produces, whether it is sold in Korea or exported to Australia. An import parity reference set by Chinese offers influences the price DKCM can obtain in Korea, and Chinese competition in third markets influences the price it can obtain elsewhere. BlueScope's own case is that the two channels operate cumulatively on Korean cost and price formation.²³

If that is right, the alleged effect does not fall on domestic prices alone. Before the Commission could treat DKCM's home market sales as unsuitable it would have to examine the effect on export prices as

¹⁸ Report No 611, section 6.2.2, p 32.

¹⁹ Report No 611, section 6.2.2, p 32.

²⁰ Panel Report, Australia – A4 Copy Paper from Indonesia (WT/DS529/R), p 35.

²¹ Panel Report, Australia – A4 Copy Paper from Indonesia (WT/DS529/R), p 57.

²² GATT Panel Report, EEC – Cotton Yarn from Brazil, paras 478 to 479, as quoted in Panel Report, Australia – A4 Copy Paper from Indonesia, p 17.

²³ BlueScope submission, section II, p 4.



well and explain why a proper comparison is prevented. BlueScope's submission does not attempt that examination, and its market situation section does not mention export prices at all.

Conclusion

For the reasons set out above, DKCM respectfully asks the Commission to:

- decline to find, for the purposes of subparagraph 269TAC(2)(a)(ii), that a particular market situation exists in the Korean market for zinc coated (galvanised) steel;
- determine DKCM's normal values under subsection 269TAC(1) from its verified domestic sales of like goods, and decline to reject its recorded costs of hot rolled steel; and
- require BlueScope to place on the public record a summary of Confidential Attachment 3 containing sufficient detail to allow a reasonable understanding of its substance;

Yours faithfully,

Dongkuk Coated Metal Co., Ltd