

## ● CLAYTON UTZ

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Ms Lydia Cooke  
Manager, Operations 1  
International Trade Remedies Branch  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
CANBERRA ACT 2600

9 July 2012

Our ref 11276/80133959

Dear Ms Cooke

**Hot rolled coil steel exported from the Republic of Korea, Taiwan, Japan and Malaysia**

We act for Nippon Steel Corporation (**Nippon Steel**). We refer to the Australian Customs and Border Protection Service (**Customs**) investigation into alleged dumping of hot rolled coil steel (**HRC**) exported from the Republic of Korea, Taiwan, Japan and Malaysia following an application lodged by BlueScope Steel Limited (**the Applicant**).

The purpose of this submission is to demonstrate that:

- (a) the application submitted by the Applicant is inadequate and suffers from a substantial number of procedural defects, including a failure to provide adequate non-confidential information; and
- (b) the Applicant has failed to adequately address (let alone prove to an adequate evidential standard) the issue of causation and material injury in its application.

Notwithstanding (b) above, a detailed submission on material injury will be submitted in due course.

**1. Contentions**

1.1 Our client contends that the Applicant has failed to:

- (a) provide sufficient information rendering Nippon Steel unable to adequately defend its interests; and
- (b) properly address the causal link between imports by our client such that there can be no determination of material injury.

**2. Background**

2.1 On 10 May 2012, the Applicant lodged an application requesting that the Minister for Home Affairs publish a dumping duty notice in respect of HRC exported to Australia from the Republic of Korea, Taiwan, Japan and Malaysia.

2.2 The Applicant alleges that Australian industry has suffered material injury, as a result of HRC being exported to Australia from the nominated countries at dumped prices. The Applicant claims that material injury commenced during 2010/2011 and that the industry has suffered injury in the form of:

- (a) price depression;
- (b) price suppression;
- (c) reduced profits;
- (d) reduced profitability;
- (e) reduced revenues;
- (f) reduced employment;
- (g) reduced wages expense; and
- (h) reduced return on investment.

2.3 In response to the Consideration Report No 188, published on 14 June 2012, Nippon Steel, as an interested party, makes these submissions.

### 3. Failure to provide adequate non-confidential summaries

3.1 Nippon Steel considers that the Applicant's application fails to provide adequate non-confidential summaries in relation to its key claim on injury and causation.

3.2 The dumping authority has the responsibility of determining the issue of confidentiality. This is illustrated by the very recent Panel decision in *China- Countervailing and Anti Dumping Duties on Grain Orientated Flat Rolled Electrical Steel From the United States*. In that case the Panel stated:

The obligations in Articles 12.4.1 of the SCM Agreement and 6.5.1 of the Anti-Dumping Agreement fall upon the investigating authorities. The Appellate Body agreed with this interpretation in *EC – Fasteners (China)*. The Appellate Body found that in respect of information treated as confidential under Article 6.5, Article 6.5.1 imposes an obligation on the investigating authority to require that a non-confidential summary of the information be furnished.

The Appellate Body noted that this accommodates the concerns of confidentiality, transparency and due process.

Where "exceptional circumstances" exist, such that non-confidential information is not susceptible of summary, Article 6.5.1 requires that the party identify the exceptional circumstances and provide a statement explaining why summarization is not possible. The investigating authority must scrutinize such statements to determine whether they establish "exceptional circumstances".

3.3 While the application does provide an index, separating confidential from non-confidential information, the mere inclusion of an index does not fulfil the obligation to provide an adequate non-confidential version of the application. Transparency and due process (an Americanism for natural justice in Australia) is a cornerstone of the legal system under which we operate.

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3.4 In this instance, the Applicant has failed to provide adequate non-confidential summaries. Accordingly, Nippon Steel is not in a position to defend its interests. As Nippon Steel's right to adequately defend its interests has been compromised, we would request that the inadequacies outlined below be addressed as a matter of urgency.

Evidence of price effect of alleged dumped imports

3.5 By way of example, the Applicant, at pages 29 and 30 of the application, notes that it has provided its summary of competitive offers (at Confidential Attachment A 9.2.1) to confirm that imported HRC from Taiwan and Korea were generally provided at the same level as the Applicant's net selling price. The Applicant, however, has not provided a non-confidential summary of that attachment.

3.6 The Applicant has stated that it has supplied information of price undercutting in the distributor segment of up to 20% at Confidential Attachment A 9.2.3. Nippon Steel considers that there has been inadequate consideration of the need to provide a non-confidential summary of this information. Nippon Steel would not consider information about the date of offers being made, their frequency and in which sector of the market these offers were being made, to be confidential information. Accordingly, Nippon Steel requests that the Applicant supply this information.

3.7 The Applicant has not only deemed the attachment to be confidential, but it has also redacted the title of the document, or the descriptor, on the basis on confidentiality. There does not appear to be any proper basis on which the Applicant can claim confidentiality over the description of the goods to which it claims the competitive offers relate.

3.8 Nippon Steel notes that the Applicant has acknowledged that the market is segmented into three different *product* sectors, namely:

- (a) Pipe and Tubing;
- (b) Automotive Market; and
- (c) Manufacturing.

3.9 The Applicant claims that it has responded to dumped prices in the Pipe and Tube market, and indeed has nominated JFE and Nippon Steel as suppliers in this market. This would suggest that no claim of confidentiality can be made on the product description.

3.10 At present, Nippon Steel is faced with the specific allegation in relation to the Pipe and Tube sector, but it is not clear whether the same allegation is being made against it in general or with particular examples in relation to any other market sector. This does not allow Nippon Steel to be in a position to adequately defend its interests, particularly if it is alleged that it has in fact engaged in pricing behaviour that has resulted in price undercutting, price suppression or price depression.

3.11 While the Applicant has made an allegation of price undercutting against Nippon Steel, such an allegation, by its very nature, can only arise once a contract is entered into and a price agreed. The "evidence" referred to in that respect is simply a reference to competitive offers, a term which is not defined but presumably means that it is merely an offer made as part of a negotiating process, not a contract. Nippon Steel is therefore left with one example of

evidence, in one quarter, but not what sector of the market that evidence pertains to, as all other information is said to be confidential.

3.12 Nippon Steel contends that this is entirely unsatisfactory and Customs should request that the Applicant provide an adequate non-confidential summary of the evidence relied upon.

3.13 In saying this, Nippon Steel would naturally assume that the Confidential Attachments will contain more than a spreadsheet of figures, given the Customs' statement on probative evidence in the Consideration Report (see 4.18 below).

#### 4. **Other shortcomings relating to the application**

##### Inadequate consideration - cost drivers

4.1 The Applicant has attached its last two Annual Reports to the Application, and in those Annual Reports has identified the cost pressures it has been under. Customs' attention was drawn to:

- (a) a chart which shows steel spread and the high volatile steel prices;
- (b) a chart on steel spread and global steel market dynamics;
- (c) a chart showing the quantum jump in iron ore and coal prices over the last three years; and
- (d) a chart showing the foreign exchange movements which has exacerbated the contraction of the US spread and has led to increased import competition.

4.2 The identification of key cost drivers, especially when they have substantially affected the Applicant's business so as to make it unprofitable, are key issues.

4.3 Nippon Steel acknowledges that there are references to these cost drivers in the Annual Reports, however, it is not the task of an interested party to construct a non-confidential version of an application from all the information that is provided in accompanying documents. Indeed, it is the responsibility of the Applicant to supply an adequate non-confidential summary in the application itself, something that the Applicant has failed to do, even though this information was readily available.

4.4 While it could be said that the Applicant was focussing on what it said was the cause of injury to it, namely dumped imports, it failed to meaningfully address one of the chief causes of injury, the unprecedented rise in coking coal and iron ore prices.

4.5 In a case such as the one being put forward by the Applicant, where other injury factors are the substantial cause of the injury being suffered, to find that material injury is still being caused by dumped imports requires particular consideration of the injury factors, even at the stage of initiation of the investigation, to ensure that there is a prima facie case of material injury.


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*Influence of volume of dumped imports on quarterly sales volume and market share*

- 4.6 At item A-8, on page 26 of the Applicant's application, the Applicant "*estimates that material injury from the allegedly dumped and subsidised exports commenced during 2010/2011*" and "*further injury*" was experienced in 2011/2012.
- 4.7 In an attempt to support its claim, the Applicant asserts at page 29 of its application that "dumped imports":
- (a) increased by 59% in 2010/11 over 2009/10 levels;
  - (b) constituted 17.7% of HRC market in 2010/11;
  - (c) increased by 5.6% in 2010/11 when compared to the base year of 2008/9; and
  - (d) essentially commenced in 2010/11 with the Applicant experiencing a reduction in sales volume in that year.
- 4.8 Customs, in conducting its investigation, must only consider whether dumping occurred in the investigation period. Accordingly, the above allegations cannot be taken into account in any assessment of material injury in so far as they refer to the effects as being due to dumped imports.<sup>1</sup> In short, there can be no finding of material injury prior to the investigation period because at law there can be no finding of dumping for a period other than the investigation period. The Applicant's analysis therefore is unhelpful, misconceived and the conclusions sought to be drawn from it are hollow.
- 4.9 The Applicant also states, at page 29 of its application, that the volume of imports from Taiwan, Korea, Japan and Malaysia increased 5% when compared to 2008/9. However, during the actual investigation period of 2011/12, Appendix A2 (page 20 of the application) shows that when comparing sales quantities against the prior year, there was a decline of 11.5% in the Applicant's total Australian sales while the alleged "dumped imports" declined by approximately 30.1%. Of significance also is the fact that that the decline in the sales volume of "other imports", that is non-dumped imports, was in the order of 13.8%.
- 4.10 This analysis would support the more rational and logically satisfying explanation that the volume decline was due to the weaker demand in Australia, a fact acknowledged by the Applicant when it stated that its market share actually grew slightly above 2010/11 levels in 2011/12.
- 4.11 Finally, the claim at pages 29 and 30 of the application that the Applicant responded to price offers in the market place to meet competition from 'dumped' imports is, so far as it relates to our client (and JFE), exceptionally weak and bare of any proper evidential basis. The Applicant says it "*understands*" (presumably a euphemism for hearsay) that Australian pipe

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<sup>1</sup> See page 103 of the Draft Dumping and Subsidy Manual which states, relevantly, that: "*[I]n establishing causation, focus is on injury indicators in the dumping investigation period... There can be no presumption that goods exported to Australia before the commencement of the investigation period are dumped goods*"

and tube manufacturers have achieved a lower price than that offered by the Applicant. We respectfully submit that any such reduction in price by the Applicant is indicative of price competition resulting from factors other than dumped imports.

Price suppression

4.12 At page 37 of the Customs' Consideration Report it is said that:

*Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.* (emphasis added)

4.13 It is accepted that a dumping authority is entitled to make a finding of price suppression where prices have been unable to match increases in costs. The Panel in *China- Countervailing and Anti-Dumping Duties on Grain Orientated Flat Rolled Electrical Steel From the United States*<sup>2</sup>, at page 127, considered the argument that underlying cost changes may simply reflect a relevant factual circumstance, namely that the change in the price cost ratio merely reflects changes in the industries underlying cost structure.

4.14 In that case, the question was considered in the context of the cost incurred in starting up, whether or not the market could keep absorbing the price increases and whether what is being observed in relation to price suppression is just a fundamental change in costs and cost price ratio. On that issue, the Panel noted:

*China contends that even if there were start-up costs in 2008, such costs are a natural part of business. China asserts that a domestic industry should be able to expand, incur start-up costs, and yet still maintain its profitability. China asserts that the domestic industry could not do this because of the surge in the volume of subject imports during 2008. We accept that, up to a certain point, the market may allow companies to increase prices to recover increased costs, including costs associated with starting-up new production facilities. This process of price matching increasing cost cannot continue indefinitely, though. After a certain point, the market will consider that the increased costs are not commercially reasonable, and that prices should not be allowed to rise accordingly. The point at which this occurs will depend on many factors, including the relationship between capacity, supply (domestic and foreign) and demand. It is not for the Panel to determine de novo whether the start-up costs incurred by the domestic industry were commercially reasonable, such that domestic prices should have been able to rise to the full extent of such costs. This is a complex issue that should have been considered by MOFCOM. Instead, MOFCOM simply assumed that (i) prices should have been able to rise with costs and (ii) the only reason prices were not able to rise with costs was because of the effect of subject imports.* (emphasis added)

4.15 The point being made is that are circumstances where it can no longer be assumed that prices will always continue to increase so as to recover cost increases and that what can occur is a

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<sup>2</sup> WTO: WT/DS414/R dated 15 June 2012

shift in the cost price ratio. Depending on the given facts of a case, it may not be commercially feasible for prices to rise to cover costs.

- 4.16 The argument being put by the Applicant is that it should always enjoy a static cost price ratio and that it should always be able to increase its prices to ensure that it can recover its costs.
- 4.17 The facts in the application go against the assumption that prices can be increased simply to recover all the costs that have been incurred by the Applicant. The prices in the base year do not provide sufficient guidance for the investigation period. As acknowledged by the Applicant, demand is weak and the high Australian dollar has made imports more competitive. To this, one could add the high cost of coking coal and iron ore, which has increased, as a percentage of raw material cost, from 30% to 70% during the investigation period.
- 4.18 At page 27 of the Consideration Report, Customs has stated that:

*However, the application contains probative evidence that the prices offered for the imported goods from the nominate countries and territory have undercut the applicant's prices of the locally manufactured goods. Furthermore, correspondence from customers shows that the price of imports is used in price negotiations with the Australian industry. In order to maintain market share, BlueScope has necessarily reduced its prices to remain competitive in the Australian market*

*This has inhibited BlueScope's ability to raise prices in line with the increase in the cost to make and sell the locally manufactured product.*

- 4.19 Nippon Steel contends that there is no evidential or rational basis for the statement that the Applicant could have raised its prices to cover the cost to make and sell, given that it had acknowledged undertaking cost reductions.
- 4.20 The real and only relevant question for Customs is whether, in this case, the price increases being sought to recover costs can only be attributed to the effect of dumped imports as alleged.

Price depression

- 4.21 The only direct reference, in the Application, to information being supplied to establish price depression relates to a reference to confidential information supplied in the "Distribution" market - not the *product* market.
- 4.22 The amount of price depression alleged by the Applicant is in the order of 2%, but this could, on examination during the course of the investigation, be attributable to the impact of weak demand.

Price undercutting

- 4.23 The Applicant, in its application, states that it has provided detailed negotiations from one of its HRC customer for one quarter, being April to June 2011.


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- 4.24 In respect of the Pipe and Tube sector, the Applicant stated that it "understands" that two HRC suppliers, JFE and our client have supplied HRC to the Australian market during 2011/12. Further, that during the July to December 2011 period, there were import **offers** which undercut the Applicant's price by 16%. Further general statements were made by Applicant that offers of up to 20% below its prices have forced it to reduce its selling prices.
- 4.25 In response to these claims, our client submits:
- (a) the Applicant has identified three product markets, and these three markets should be treated as different market segments based on different products and different customer bases;
  - (b) the only reference to any contract negotiations has been in relation to only one unidentified customer; and
  - (c) all other references have been to information contained in confidential attachments. Those references are to competitive offers, or in the case of Pipe and Tube market to "understandings" or to offers. There is no suggestion that detailed documents on negotiations or contracts have been provided.
- 4.26 Given the limited and sparse evidential material, Customs' statement that the Applicant has provided "probative evidence" of price undercutting as part of the application is not credible. Nippon Steel has, at 3.5 to 3.13 above, referred to and highlighted the procedural flaws and inadequacies in the application as well as the nature of the evidence required to sustain a finding of price undercutting.
- 4.27 Nippon Steel simply notes that the statement made in the Consideration Report is a generalised statement. The publicly available evidence being cited as to the probative evidence is unverified and must be viewed with some degree of caution.
- 4.28 To make such a statement, Customs would be required to have evidence of actual contracts and, and not mere "commercial offers". Our client does not know the date of the offer, timing of delivery, product offering or other factors so as to make any real assessment about the validity of the comparison being made. In those circumstances, and unless a thorough comparative examination is made, the offer cannot constitute evidence that can be given any weight such that it is considered "probative". Furthermore, a price undercutting analysis requires that a price be established. There is no evidence of any established price.
- Inadequate information
- 4.29 In providing details to substantiate the application, the Applicant, in many instances, has simply provided dot-point responses, with very little commentary. One example of this is the Applicant's response to "*Cause of demand variability*" at page 18 of the application.
- 4.30 The information being sought is that based on the Applicant's own knowledge of the market and one would expect for the Applicant to provide a narrative of not only what the factors are, but also how those factors have affected the Applicant's business, in particular in relation to prices.
- 4.31 The information provided by the Applicant is wholly unsatisfactory as it simply lists a range of factors, all of which are deemed to be relevant to the issue of demand variability, but no



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basic analysis of how these factors have impacted prices. This information is not only vital for Customs, but also in assisting interested parties to assess those factors as contributing to any injury from the alleged non-dumped sources. This type of analysis should have been provided by the Applicant.

4.32 The Applicant, by its own admission, says that the key reason for its loss is the cost pressure it has faced through rising cost of iron ore and coal prices.

4.33 Customs, in its Consideration Report, stated:

*The applicant accepts that the global downturn experienced in 2009/10 has contributed to the loss of sales volume. While the market subsequently increased, it has not yet grown back to the size it was in 2008/09. However, BlueScope argues that this reduction in market size has not impacted all suppliers equally but that imports from the nominated sources have actually increased since 2008/09. Furthermore, it argues that given the smaller market size it is more susceptible to the effects of dumping.*

*BlueScope also notes that it incurred significant costs in the shutdown of its export business and the restructure of its import business, however, as mentioned above, these costs have been excluded from the profit and cost analysis.*

4.34 This statement is no more than a repetition of the views expressed by the Applicant in the application, with no apparent attempt by Customs to analyse or further examine this issue.

4.35 It appears that the most significant injury suffered by the Applicant is the substantial increase in the cost of coking coal and iron ore, yet this factor is not mentioned in the "Index of cost variation" at page 26 of the application, other than an acknowledgement by the Applicant that it has experienced an increase in unit cost to make and sell, exceeding 10%.

4.36 Nippon Steel submits that this is not a satisfactory response as there is no explanation as to what factors caused this substantial increase. Likewise, to say that these substantial cost increases exceeded 10% again is non responsive, in that a precise figure should be given or at the very least a range so that interested parties would know the nature and extent of the claim being made. This information is relevant to the claim for price suppression which is the critical issue to the claim of material injury being made in this case.

## 5. Causation - Link between injury and dumped imports

5.1 As the Appellate Body noted in *US - Hot Rolled Steel*, the investigating authorities are required, as a part of their causation analysis, to examine all "known factors" other than dumped imports which are causing injury to the domestic industry. Where such other known factors are causing injury, the investigating authority must ensure that the injurious effects of these factors are not attributed to the dumped imports.

5.2 The non-attribution analysis requires "*separating and distinguishing the injurious effects of the other factors from the injurious effects of the dumped imports*", rather than making "*mere assumptions*" about the effects of the imports and the other factors.

5.3 Nippon Steel does not consider that this issue has been properly addressed by the Applicant in the application.

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- 5.4 In this case, four injury factors have been identified by the Applicant as a cause of injury, other than the allegation of dumped goods. They are:
- (a) the greatly increased cost to make and sell HRC;
  - (b) the impact of weak demand;
  - (c) the high Australian dollar making imports more competitive; and
  - (d) the impact of the high Australian dollar on exports sales and subsequent closure of one facility because of the loss making on export sales.
- 5.5 Although, from the statements made in the Annual Reports and a speech made by Diane Grady (the Applicant's chair of the remuneration committee - copy **attached**), we are aware that the Applicant has faced the perfect storm of micro and macro economic disadvantages. The combination of all these matters were not adequately addressed in the application.
- 5.6 At pages 31 and 32 of the application, the Applicant claims that:
- (a) the dumped imports have contributed to the deterioration in its domestic profit in a "material manner" (i.e. resulting in a negative profit on a \$520m turnover business during 2011/12);
  - (b) as the Australian market is contracting, local producers are more susceptible to the impact of dumped goods and that the impact of dumped goods is greater than if the market was expanding;
  - (c) the exchange rates may have impacted on its dumping margin calculations by 2% , but that this did not materially alter the finding of dumping; and
  - (d) the market was shrinking but that not all parties were affected equally as imports from Taiwan and Korea, increased by 8 and 4 per cent respectively in contrast to the 13 per cent reduction in sales experienced by it.
- 5.7 However, the Applicant has not mentioned the impact of the very substantial price increase of coking coal and iron as another source of injury. These cost pressures have and will continue to be the predominant (if not sole) cause of injury suffered by BlueScope. In our opinion the impact of the increased cost of coking coal and iron ore is of such critical importance to the application, that it should have been addressed in detail.
- 5.8 Likewise, there has been no genuine consideration of the impact of the reduction in demand in the Australian market on the price of HRC. We note that at page 20 of the application, the index of sales quantities shows that for the year 2011/12, compared to 2010/11:
- (a) the Applicant's sales were down some 11.5%;
  - (b) 'dumped' imports were down by some 30.1%; and
  - (c) other imports were down 13.8%.
- 5.9 In other words, during the investigation period, the sales quantities of the dumped imports were down almost 3 times that of the Applicant's, while "other imports" fell by a similar


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margin to the Applicant. If the sales quantities of 'dumped imports' fell by over 30%, the Applicant's claim of price undercutting and suppression becomes unsustainable and illogical. This is because one would rationally expect that the sales quantities of dumped imports would not have fallen by a greater margin than the Applicant's. Rather, the sales quantities of the dumped imports subjected to any price undercutting as claimed, would more naturally have increased.

- 5.10 This index shows that the biggest increase in sales quantities from dumped imports occurred in the period 2010/11 when compared to 2009/10. This increase cannot be attributed to the effect of dumped imports and it would indicate that there were other factors at play.
- 5.11 In the Consideration Report, at pages 26 and 27, Customs refers to "*injury caused by factors other than dumping*" and provides an assessment of the claim for material injury.
- 5.12 Nippon Steel considers that the treatment of cost drivers has not been sufficiently addressed. This should have been dealt with in the application and must be considered in further detail during the course of the investigation.
- 5.13 Nippon Steel considers that the impact of Chinese demand for iron ore and coking coal was such that, when combined with the weak domestic demand, was responsible for the Applicant's loss making position during the investigation period.
- 5.14 Further, the fact that the cost increases of iron ore and coal were so great that the question of whether, in the present market, the Applicant was ever in a position to increase its prices to recover the cost increase of raw materials and thereby return to profit is doubtful.
- 5.15 While the impact of alleged dumped goods may have contributed to the Applicant's injury, this is not the position being put forward by the Applicant, and it can only be put if proper regard is had to the other factors.

6. **Conclusion**

6.1 Our client submits that:

- (a) the Applicant's application has a number of substantial evidential and procedural defects, including a failure to provide adequate non-confidential summaries; and
- (b) the Applicant has failed to adequately address the issue of causation - a reasonable decision maker could not be satisfied on the flimsy evidence presented to date.

6.2 Customs should insist that the Applicant agree to provide the information which it ought to have provided at the time of filing its application and re-assess its claims of confidence so that interested parties such as Nippon Steel have a genuine opportunity of knowing the case they have to meet. Our client should not have to guess as to what that information is. Our client's request is neither unreasonable nor onerous. We would request that Customs ensure that the Applicant attend to these matters as soon as possible.

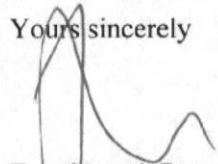
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Yours sincerely



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**REMUNERATION REMARKS**

This has been a tough year for BlueScope shareholders, staff and board on every dimension, and remuneration is no exception.

Understandably, many shareholders are disappointed that the Board has paid some Short Term Incentive Bonuses to executives when the company has made a loss and its share price has been so poor.

Paying bonuses was not an easy decision, but we believe doing so was in the best interests of the company, and by law, that is Directors' responsibility—to act in the best interests of the company.

Let me explain why we took this decision.

As Graham and Paul outlined, the company has been caught in a perfect storm due to a combination of external factors which I'll reiterate:

First, the rapid rise in the Australian dollar has made our export business which accounted for half of Port Kembla's steelmaking production uncompetitive and imports more attractive. Before this exchange rate shift, BlueScope's steelmaking was in the lowest quartile of the cost curve making our exports attractive to buyers.

Second, the rapid increase in raw material prices has squeezed the profit margin out of steelmaking.

Three years ago raw materials made up just one third of the cost of steel production.

But the soaring increases in iron ore and coking coal prices have taken raw materials up to 70% of our total steelmaking production costs.

Though management has worked hard to reduce costs by almost a billion dollars after the restructuring this has not made up for the massive cost increase the company bears in raw materials.

Third, there has been a significant drop in demand for steel in both Australia and the USA due to stagnant manufacturing and building and construction industries.

This reduction in demand has led to excess steel capacity in most developed countries, which means more export tonnes are trying to find a home.

With our high Aussie dollar imports are knocking on the door, which restricts BlueScope's ability to put through price increases to compensate for soaring raw material costs...

...as I said the perfect storm caused by factors outside management's control.

And since the GFC, executive remuneration has rightly reflected these difficult circumstances.

Two years ago, when profit performance was poor (though we still made dollars), the Board intervened and declined to pay any Short Term Incentive bonuses—even though most executives had earned at least some STI either on non-financial KPI's or in regions still doing well on their financials such as China or Asean.

We also instituted a complete pay freeze for executives.

The executive team accepted these decisions—indeed, the CEO recommended them.

The board took a tough position – zero bonuses and there was no push back.

In 2010, the company's financial performance picked up a bit, and we paid the short-term incentives that were earned—still less than 50% of their maximum.

The picture for Long Term Incentives has been even bleaker for executives as well as for shareholders. No LTI payments have been earned since the 2005 award vested in 2008.

The combination of a pay freeze, limited STI bonuses, and no LTI meant significantly reduced remuneration for BlueScope executives.

And we began to lose people — nearly a dozen key managers below the executive leadership team left the company primarily targeted by resources related companies.

In 2011 the board once again seriously considered exercising our discretion to pay no bonuses to executives.

We decided against that course of action for several reasons.

Executives have genuinely earned their non-financial KPIs—they have delivered on a range of specific initiatives which have improved our financial situation or have positioned the company for future growth.

Achieving those initiatives has required – and is still requiring – extraordinary effort, creativity, courage and perseverance -neutralizing carbon tax, shutting the blast furnace, merging three domestic businesses into one, establishing a global PEB business – these are just some examples.

Executives have worn the pain of reduced remuneration in the past, without complaint.

They are not a greedy bunch! This year we felt it was fair—and wise-- to recognize what they have achieved by paying some STI.

I hope shareholders would appreciate that keeping our senior executive team together and motivated is critical both to the company's short term performance and our long term prospects.

Companies facing difficult industry-wide circumstances need top people to work through the cycle. Under Paul's leadership BlueScope's executive team has stuck with us, working hard to manage through one of the toughest industry challenges a company could face. It's certainly not easy money!

If our executives come to believe that no matter what they do, no matter what they achieve, there will be no STI, it will be difficult for us to retain them--and replacing them could well be even more expensive.

Many cashed up resources-related companies would love to get their hands on BlueScope's talent--and they can pay—all part of the two speed economy.

This is not good for BlueScope as a company, and ultimately it is not good for shareholders. Each year since listing, I have addressed shareholders at our AGM to explain key elements of our remuneration report.

We have in many ways been leaders in fostering responsible remuneration policies and transparency-- indeed ASIC used an excerpt from our Remuneration Report last year as an example of good disclosure of non-financial STI's.

Shareholders have supported our approach—we have averaged in excess of 95% favourable votes over the years.

That said, our remuneration system can always be improved.

Early each year the Remuneration and Organisation Committee reviews our remuneration approach and agrees on amendments.

In 2012 we will conduct a comprehensive review that will include consultation with investors and shareholder advisory bodies.

At that time we will consider several potential changes including:

- 1) assessing the appropriate mix of STI and LTI; and
- 2) deciding whether we should continue to have 100% of LTI related to TSR, or instead, adopt a mix of hurdles.

We also will respond to requests from proxy advisors to be even more explicit in our disclosure of comparator groups and STI targets and achievements.

When we decided to pay executives the bonuses they had earned against targets set twelve months ago --despite the poor financial performance of the company -- we understood that we risked shareholder opposition—but we concluded it was the right thing for the business—which as I said previously is the legal responsibility of Directors.

We hope shareholders will also reflect on what's best for the company in placing their vote.

The two strike rule makes retribution easy for unhappy shareholders—but we hope it will also make shareholders consider the consequences of their vote.

A 'no' vote could have a particularly demotivating effect in a company like BlueScope that has taken its remuneration responsibilities seriously—a company where executives like shareholders have worn the pain.

We hope that once again you will support the motion to adopt our Remuneration Report.

Thank you, Diane.