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11 June 2015

Mr Geoff Gleeson
Director, Operations 1
Anti-Dumping Commission
C/o Industry House
10 Binara Street
CANBERRA ACT 2601

Dear Mr Gleeson

For Public File

Investigation No. 249 – Zinc Coated (galvanised) Steel exported from India and Vietnam – BlueScope Concerns re Essar Steel India Ltd Exporter Visit Report redactions

Introduction

I refer to the Essar Steel India Ltd (“Essar”) exporter visit report placed on the public file on 10 June 2015.

Timing

The current investigation was commenced on 11 July 2014. Following several delays to the scheduled date for publication of the Statement of Essential Facts (“SEF”), SEF No. 249 is due to be published on 16 June 2015. The Essar exporter visit report and a submission made on behalf of Essar were placed on the electronic public file late on Wednesday, 10 June 2015. The relative short timeframe between accessing the Essar exporter visit report and the publication of SEF No. 249 (i.e. 6 days) does not provide BlueScope Limited (“BlueScope”) with sufficient opportunity to:

- (i) Comment on the Essar exporter visit report; and
- (ii) Have BlueScope’s comments considered by the Anti-Dumping Commission (“the Commission”) prior to the publication of SEF No. 249.

ACDN No 2012/42 details the former Customs and Border Protection’s endeavour to have all public file documents placed on the public file “*at least two weeks prior to the publication of the SEF*”.

Irrespective of the current limitation, BlueScope does propose to provide the Commission with comments concerning matters contained in the Essar exporter visit report that are relevant to the determination of the preliminary dumping margins as soon as practicable.

Levels of redaction

The Essar exporter visit report contains numerous redactions that limits BlueScope’s (and other interested parties) ability to “*allow a reasonable understanding of the substance of the information*” that has been removed from the public file version of the document.

ACDN No. 2012/42 reflected the requirements of s.269ZJ of the Customs Act that requires:

“All redacted or deleted text in documentation provided for the Electronic Public Record (EPR) must be accompanied by a summary that contains sufficient detail to allow a reasonable understanding of the substance of the information. This may be done by providing bracketed text following any redacted text¹.”

BlueScope submits that information redacted from the Essar exporter visit report has, in certain areas of the report, not been accompanied with an adequate summary “*that contains sufficient detail to allow a reasonable understanding of the substance of the information.*” These areas are identified as follows:

(i) **Section 2.1.3** Essar Middle East FZE (Internal corporate arrangement).

Comment: The summary is an insufficient and inadequate explanation of the information removed.

(ii) **Section 3.3.1** Goods exported to Australia

Comment: The goods specifications are readily available from import offers for Essar galvanised steel in the market (as evidenced in BlueScope’s application). It is not clear what grounds exist for this information – coating thickness, base metal thickness, widths – to remain confidential.

(iii) **Section 3.3.2** Domestic sales of like goods

Comment: The visit team’s conclusions on like goods produced by Essar have been redacted. This information is not for Essar to redact.

(iv) **Section 5.2.1** Ordering, pricing and production

Comment: A non-confidential summary of the sales procedure has not been disclosed. It is understood that Essar’s pricing policies remain confidential, however, its sales procedure is a process (or methodology) that is regularly disclosed in exporter visit reports.

(v) **Section 5.2.4** Discounts, rebates and commissions

Comment: The limited summary does not indicate whether any of the categories applies. This has further ramifications in relation to Section 9.9 where the adjustment “direction” has also been redacted.

(vi) **Section 5.4.2** Sales involving internal corporate arrangements

Comment: Insufficient detail has been disclosed as to internal transfers within Essar.

(vii) **Section 6** Cost To Make And Sell

Comment: Under the point “Selling costs” a certain expense item has been deleted and the words “commercial arrangement” are intended as a summary. This is an insufficient explanation as to the nature of the expense item that prevents interested parties from understanding the relevance of the item.

¹ Refer ACDN No. 2012/42.

(viii) **Section 6.3** Verification of SG&A expenses

Comment: an expense item has been deleted with an inadequate summary as to the nature of the item. Further redactions are made with the summary "cost adjustment". Again, inadequate declaration of the nature of the expense has occurred. A further redaction with inadequate summary relates to a "financial expenses" item.

(ix) **Section 7.2** Domestic sales process

Comment: redactions made relating to the domestic sales process via the different channels to market – insufficient summary as to the nature of the sales channels has been made.

(x) **Section 9.1** Credit terms

Comment: It is not clear why the Visit Team's observation after the following words has been redacted i.e. "*In these circumstances, and noting that*".

(xi) **Section 9.4** Commissions

Comment: No adequate attempt has been made to summarize the information redacted, other than to describe as "commercial arrangement". This is unsatisfactory and insufficient.

(xii) **Section 9.9** Adjustments – conclusion

Comment: The impact of adjustments (i.e. upwards and/or downwards) for Commissions has been redacted in total. No summary of the direction of the adjustment has been afforded.

Request

BlueScope requests the Commission to require Essar to adequately disclose in sufficient detail information that has been redacted in the exporter visit report in accordance with S. 269ZJ and ACDN No. 2012/42.

If you have any questions concerning this letter, please do not hesitate to contact me on (02) 4275 4638 (direct), or BlueScope's consultant John O'Connor on (07) 3342 1921.

Yours sincerely



Chad Uphill
International Trade Affairs