Australian Government
Australian Customs and Border Protection Service

CUSTOMS ACT 1901 - PART XVB

INTERNATIONAL TRADE REMEDIES BRANCH

REPORT NUMBER 193

ALLEGED SUBSIDISATION OF ZINC COATED STEEL AND ALUMINIUM ZINC COATED STEEL

EXPORTED FROM

THE PEOPLE'S REPUBLIC OF CHINA

28 June 2013

1 CONTENTS

2 ABBREVIATIONS & SHORTENED FORMS

Abbreviation / short form	Full reference
ABS	Australian Bureau of Statistics
ACDN	Australian Customs Dumping Notice
ACBPS	Australian Customs and Border Protection Service
the Act	Customs Act 1901
the applicant	BlueScope Steel Limited
AD Agreement	World Trade Organisation Agreement on Anti-Dumping
AS	Australian Standard
AZCS	aluminium zinc coated steel
BlueScope	BlueScope Steel Limited
BMT	base metal thickness
China	People's Republic of China
the Division	Division 2 of Part XVB of the Customs Act 1901
EXW	ex-works
FOB	free-on-board
GOC	Government of China
the goods	the goods subject to the applications (zinc coated (galvanised) steel and aluminium zinc coated steel)
HRC	hot rolled coil
NIP	non-injurious price
ITRB	International Trade Remedies Branch
The Minister	Minister responsible for this case is the Attorney General
REP 177	International Trade Remedies Branch Report 177 regarding hollow structural sections
REP 188	International Trade Remedies Branch Report 188 regarding hot rolled coil
REP 190	International Trade Remedies Branch Report 190 regarding zinc coated steel and aluminium zinc coated steel
Review Panel	Anti-Dumping Review Panel
SEF	statement of essential facts
SIE	state invested enterprises
USP	unsuppressed selling price
WTO	World Trade Organisation

3 SUMMARY AND RECOMMENDATIONS

These investigations are in response to separate applications lodged by BlueScope Steel Limited (BlueScope) in relation to the allegations that subsidised zinc coated (galvanised) steel and aluminium zinc coated steel[1] exported to Australia from the People's Republic of China (China) caused material injury to the Australian industry producing like goods.

On 30 May 2013, the Minister for Home Affairs, the Hon Jason Clare, identified the potential for a conflict of interest in the dumping investigations of galvanised steel and aluminium zinc coated steel exported from China, Korea and Taiwan and the subsidisation investigations of galvanised steel and aluminium zinc coated steel exported from China. As a consequence the Attorney-General is now the decision-maker for the investigations.

The Hon Mark Dreyfus QC MP, Attorney-General, will consider the Australian Customs and Border Protection Service's (ACBPS') report and recommendations and exercise powers under the *Customs Act 1901*[2] (the Act) and the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) in relation to this matter. Australian Customs Dumping Notice number 2013/47 was published on 30 May 2013 notifying this change.

This report (REP193) sets out the Chief Executive Officer (CEO) of ACBPS' recommendations for both galvanised steel and aluminium zinc coated steel to the Attorney General (hereafter referred to as the Minister) in relation to the investigations.

3.1 Recommendation

The delegate of the CEO recommends to the Minister that countervailing duty notices be published in respect of:

(a) galvanised steel exported to Australia from China by all exporters other than Angang Steel Company Limited (ANSTEEL) and ANSC TKS Galvanising Co., Ltd (TAGAL); and

(b) aluminium zinc coated steel exported to Australia from China by all exporters other than ANSTEEL.

If the Minister accepts this recommendation, to give effect to the decision, the Minister must sign the relevant notices and schedules, under s.269TJ (2) of the Act, and s.10 of the Dumping Duty Act.

ACBPS also recommends that, if the Minister agrees with the recommendation to publish countervailing duty notices, certain goods should be exempt from interim countervailing duty and countervailing duty. If the Minister accepts this

[1] Refer to the full description of the goods in section 5 of this report.
[2] A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

recommendation, to give effect to the decision, the Minister must sign an instrument of exemption from countervailing duty, under s.10 (8) of the Dumping Duty Act.

3.2 Application of law to facts

Division 2 of Part XVB of the *Customs Act 1901* (the Act) sets out, among other matters, the procedures to be followed and the matters to be considered by the CEO in conducting investigations in relation to the goods covered by an application.

3.3 Applications

On 18 October 2012, BlueScope lodged applications for countervailing duties in respect of galvanised steel and aluminium zinc coated steel exported from China. BlueScope alleged that the Australian industry has suffered material injury caused by the cumulating effects of galvanised steel and aluminium zinc coated steel exported to Australia from China, Korea and Taiwan at dumped prices[3], and from China at subsidised prices.

On 2 November 2012 additional information and data was received in respect of the applications. As a result, ACBPS restarted the 20 day period for considering the applications.

The CEO was satisfied that the applications were made in the prescribed manner by a person entitled to make the application.

3.4 Initiation of investigations

On 26 November 2012, following consideration of the applications, the CEO decided not to reject the applications and initiated two separate investigations. Public notification of initiation of the investigations was made in *The Australian* newspaper on 26 November 2012. Australian Customs Dumping Notice (ACDN) No. 2012/56 provides further details of the investigations and is available on ACBPS's website at www.customs.gov.au.

In respect of both investigations:

- the investigation period for the purpose of assessing subsidisation is 1 July 2011 to 30 June 2012; and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 July 2007.

3.5 Statement of essential facts and final report due dates

The CEO must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows, place on the public record a statement of the facts on which the CEO proposes to base a recommendation in relation to the application.

[3] ACBPS submitted the final report and recommendations (REP 190) to the Minister on 30 April 2013 regarding the dumping investigations. The report is confidential and the Minister is yet to make a final determination.

In formulating the SEF the CEO must have regard to the application concerned, any submissions concerning publication of the notice that are received by ACBPS within 40 days after the date of initiation of the investigation and any other matters considered relevant.

The initiation notice advised that the SEFs for the investigations would be placed on the public record by 16 March 2013, however, the Delegate of the CEO was satisfied that the prescribed 110 days to place the SEFs on the public record for the investigations was likely to be insufficient and requested that the Minister extend the publication timeframes.

The Minister under s. 269ZHI of the Act extended the deadline for the publication of the SEFs for the subsidy investigations to15 May 2013. ACDN 2013/22 was issued on 14 March 2013 notifying the Minister's decision.

Interested parties were invited to lodge responses to SEF193 by 4 June 2013. Non-confidential versions of all submissions considered are available on the electronic public record for these investigations.

The electronic public record contains non-confidential submissions by interested parties and other publically available documents. It is available online at http://www.customs.gov.au/anti-dumping/cases/default.asp.

3.5.1 Preliminary affirmative determination

ACBPS is satisfied that imports of galvanised steel and aluminium zinc coated steel at subsidised prices from China have caused material injury to BlueScope. It is likely that importations of the goods will occur in the future. Therefore, on 15 May 2013 ACBPS published a PAD in accordance with section 269TD of the ACT. No securities were required to be taken at that time.

3.6 Terminations

On 17 June 2013, the delegate of the CEO terminated the countervailing investigations so far as they relate to:

- Galvanised steel exported by ANSTEEL and TAGAL; and
- Aluminium zinc coated steel exported by ANSTEEL.

Termination Report No. 193(i) (TER 193(i)) sets out the reasons for these terminations.

The termination report is available on the public record.

3.7 Report 193

In formulating the final report the CEO must have regard to the applications concerned, any submissions concerning publication of the notice to which the delegate of the CEO has had regard for the purposes of formulating SEF193, any submission in response to SEF193 received by ACBPS within 20 days after the date SEF193 was placed on the public record, and any other matters considered relevant.[4]

3.8 Findings and conclusions

ACBPS has made the following findings and conclusions based on available information provided during the course of the investigations.

3.8.1 The goods and like goods (chapter 5)

Locally produced galvanised steel and aluminium zinc coated steel are like goods to the goods the subject of the applications (the goods).

3.8.2 Australian industry (Chapter 6)

There is an Australian industry producing like goods (galvanised steel and aluminium zinc coated steel) to the goods the subject of the investigations and these like goods are wholly manufactured in Australia by BlueScope.

3.8.3 Proposed exemptions (Chapter 7)

Certain parties have made application for exemption from any imposed countervailing duty on various grounds. ACBPS has considered these claims during the dumping investigations (INV190a and INV190b) and considers that if the Minister decides to exempt goods from interim dumping duty and dumping duty, the Minister should exempt these same goods from any countervailing duty under s.10(8) of the Dumping Duty Act.

3.8.4 Market (Chapter 8)

The Australian market for galvanised steel and aluminium zinc coated steel is predominately supplied by locally produced goods. Imports from China make up the majority of the remainder, with a small volume of imports from other countries.

3.8.5 Subsidy (Chapter 9)

<u>(i) Galvanised steel</u>

ACBPS determined in respect of galvanised steel that:

- galvanised steel exported to Australia from China during the investigation period by ANSTEEL and TAGAL was subsidised, but the subsidy margin is negligible;

- galvanised steel exported to Australia from China during the investigation period by all other Chinese exporters was subsidised; and

[4] Section 269TEA(3)

- the volume of subsidised goods from China and the countervailing margins (other than those for ANSTEEL and TAGAL) were not negligible.

ACBPS's assessment of countervailing margins for galvanised steel exported from China is tabulated below:

Manufacturer / exporter	Subsidy margin
ANSTEEL	Negligible
TAGAL	Negligible
Wuhan Iron and Steel Company Limited	12.5%
Yieh Phui Technomaterial	5.2%
Non-cooperating exporters	22.8%

(ii) Aluminium zinc coated steel

ACBPS determined in respect of aluminium zinc coated steel that:

- aluminium zinc coated steel exported to Australia from China during the investigation period by ANSTEEL was subsidised, but the subsidy margin is negligible;
- aluminium zinc coated steel exported to Australia from China during the investigation period by all other Chinese exporters was subsidised; and
- the volume of subsidised goods from China and the countervailing margins (other than that for ANSTEEL) were not negligible.

ACBPS's assessment of countervailing margins for aluminium zinc coated steel exported from China is tabulated below:

Manufacturer / exporter	Subsidy margin
ANSTEEL	Negligible
Union Steel China	7.9%
Yieh Phui Technomaterial	5.0%
Jiangyin Zong Cheng	10.3%
Non-cooperating exporters	21.7%

3.8.6 Injury (Chapter 10)

ACBPS considers it reasonable to cumulate the effects of the dumped galvanised steel and aluminium zinc coated steel exported from China (INV190a and INV190b) with the effects of the subsidisation.

ACBPS found that in the investigation period the Australian industry producing like goods experienced injury in the form of:

(i) Galvanised steel

- loss of sales volume;
- reduced market share;
- reduced sales revenue;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced return on investment (ROI);
- reduced ability to raise capital for re-investment; and
- reduced employment.

(ii) Aluminium zinc coated steel

- loss of sales volume;
- reduced sales revenue;
- price depression;
- price suppression; and
- reduced profit and profitability.
- reduced ROI;
- reduced ability to raise capital for re-investment; and
- reduced employment.

3.8.7 Causation factors (Chapter 11)

ACBPS determined that the combined effects of the dumping and subsidisation of galvanised steel and aluminium zinc coated steel exported to Australia from China has caused material injury to the Australian industry**.**

3.8.8 Non-injurious price (Chapter 12)

ACBPS considers that the non-injurious price can be established by reference to a constructed price which reflects an undumped and unsubsidised import parity price.

3.8.9 Proposed measures (Chapter 13)

ACBPS proposes to recommend that the collective interim dumping duty and interim countervailing duty imposed in relation to galvanised steel and aluminium zinc coated steel from China, be the sum of:

- the subsidy rate calculated for all countervailable programs, including Programs 1, 2 and 3; and
- the dumping rates calculated, less an amount for the subsidy rate applying to Programs 1, 2 and 3.

This approach avoids any overlap or double-counting that may arise from the circumstances of this case where there are domestic subsidies and a constructed normal value that includes a major cost component that is based on surrogate data.

4 BACKGROUND

4.1 Introduction

On 18 October 2012, BlueScope lodged applications for countervailing duties in respect of galvanised steel and aluminium zinc coated steel exported from China. BlueScope alleged that the Australian industry has suffered material injury caused by the cumulating effects of galvanised steel and aluminium zinc coated steel exported to Australia from China, Korea and Taiwan at dumped prices and from China at subsidised prices.

On 2 November 2012 additional information and data was received in respect of the applications. As a result, ACBPS restarted the 20 day period for considering the applications.

On 26 November 2012, following consideration of the applications, the CEO decided not to reject the applications and ACBPS initiated separate investigations. Public notification of initiation of the investigations was made in *The Australian* newspaper on 26 November 2012. Australian Customs Dumping Notice (ACDN) No. 2012/56 provides further details of the investigations and is available on ACBPS's website at www.customs.gov.au.

(i) Galvanised steel

BlueScope claimed that material injury in respect of galvanised steel commenced in 2010-11. The application identified the injurious effects as:

- loss of sales volume;
- reduced market share;
- reduced revenues;
- price undercutting;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced ability to raise capital for re-investment; and
- reduced employment.

(ii) Aluminium zinc coated steel

BlueScope claimed that material injury in respect of aluminium zinc coated steel commenced in 2010-11 and has been exacerbated in 2011-12. The application identified the injurious effects as:

- loss of sales volume;
- reduced market share;
- reduced revenues;
- price undercutting;
- price depression;

- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced ability to raise capital for re-investment; and
- reduced employment.

4.2 Previous and current investigations

Australia

(i) Contemporary activity

On 30 April 2013, ACBPS completed investigations into the alleged dumping of galvanised steel and aluminium zinc coated steel exported from China, Korea and Taiwan and provided the final report and recommendations (REP 190) to the Minister for Home Affairs.

On 30 May 2013, ACBPS published ACDN 2013/47 advising that the Minister for Home Affairs had identified a potential conflict of interest and decisions regarding the galvanised steel and aluminium zinc coated steel dumping (INV 190a and INV190b) and countervailing (INV 193a and INV 193b) investigations will be made by the Attorney-General. On 20 June 2013, the Attorney-General published a notice in *The Australian* newspaper advising that he was deferring his decisions in relation to INV190a and INV190b pending receipt of this report.

There have been no previous dumping and/or countervailing investigations in respect of galvanised steel or aluminium zinc coated steel products.

(ii) Other related products

Hot rolled coil

An investigation regarding the alleged dumping of hot rolled coil (HRC) exported from Korea, Malaysia, Japan and Taiwan was recently conducted by ACBPS. HRC is the major raw feed material for galvanised steel and aluminium zinc coated steel. ACBPS found that HRC exported to Australia from the aforementioned countries was dumped[5]. Measures were subsequently imposed by the Minister.

International[6]

(i) European Union

On 22 February 2012, the European Commission commenced an anti-subsidy investigation into imports of certain organic coated steel ("OCS") products[7] from

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[5] ACDN 2012/66 Hot Rolled Coil Steel exported from Japan, the Republic of Korea, and Malaysia.
[6] International countervailing cases which are listed in this report are not exhaustive; a sample only has been included. Other related cases, including for other zinc coated steel products (i.e. zinc coated steel wires) have not been included. The anti-dumping jurisdictions for the cases listed may or may not be comparable to Australia.
[7] Organic steel are flat rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished and coated with plastic on at least one side (source: EC Regulation no 214/2013)

China into the EU (Initiation Notice No. 2012/C 52/05). The application was made by EUROFER, the European Steel Association, on behalf of its members producing like goods.

The Commission's investigation period into OCS exported from China to EU was the twelve months ending 30 September 2011, with the last quarter of the period coinciding with the current investigation period of the galvanised steel and aluminium zinc coated steel investigations (i.e. from 1 July 2011 to 30 June 2012).

On 11 March 2013, the Commission published a "Council Implementing Regulation (EU) Numbers 214/2013 and 21/2013 imposing anti-dumping and countervailing duties on imports of certain organic coated steel products originating from the People's Republic of China.

(ii) United States

On November 5, 2012, the US Department of Commerce (the Department) initiated the second five year "sunset" review (77 FR 66439 refers) of the antidumping duty orders on certain hot-rolled carbon steel flat products from India, Indonesia, the People's Republic of China (PRC), Taiwan, Thailand, and Ukraine. The Department found that revocation of the antidumping duty orders would likely to lead to continuation or recurrence of dumping at the margins identified in the "Final Results of Sunset Reviews".

On 5 March 2013, after conducting expedited (120 day) sunset reviews of the antidumping duty orders on certain hot-rolled carbon steel flat products from India, Indonesia, the PRC, Taiwan, Thailand, and Ukraine, the Department issued notices (that came into effect on 12 March 2013) to continue the anti-dumping measures on those products exported from the nominated countries.

4.3 Current measures

There are currently no anti-dumping or countervailing measures on galvanised steel or aluminium zinc coated steel exported to Australia.

As a result of dumping investigations into galvanised steel and aluminium zinc coated steel (INV 190a and INV 190b) from China, Korea and Taiwan, a Preliminary Affirmative Determination was made on 6 February 2013 requiring securities in respect of any interim dumping duty that may become payable in respect of the goods from China, Korea and Taiwan that were entered into home consumption on or after 6 February 2013 with the exception of certain exporters.

5 THE GOODS

5.1 Finding

ACBPS considers that locally produced galvanised steel and aluminium zinc coated steel are like goods to the goods the subject of the applications.

5.2 Legislative framework

Subsection 269TC(1) of the Act requires that the CEO must reject an application for a countervailing duty notice if, inter alia, the CEO is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the CEO must firstly determine that the goods produced by the Australian industry are "like" to the imported goods. Subsection 269T(1) defines like goods as:

> "G*oods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration"*.

The CEO must also be satisfied that the "like" goods are in fact produced in Australia. Subsections 269T(2) and 269T(3) of the Act specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

5.3 The goods under investigation

ACBPS issued ACDN 2012/62[8] to provide clarification regarding the goods that are covered by the investigations. The ACDN did not alter the description of the goods as described in the applications.

(i) Galvanised steel

The imported goods the subject of the galvanised steel application are described as:

> *"flat rolled products of iron and non-alloy steel of a width less than 600mm and, equal to or greater than 600mm, plated or coated with zinc"*[9].

Galvanised steel of any width is included.

The amount of zinc coating on the steel is described as its coating mass and is nominated in grams per meter squared (g/m2) with the prefix being Z (*Zinc*) or ZF (*Zinc converted to a Zinc/Iron alloy coating*). Common coating masses used for zinc coating are: Z350, Z275, Z200, Z100, and for zinc/iron alloy coating are: ZF100,

[8] ACDN 2012/62 is available on ACBPS's website at www.customs.gov.au.
[9] Galvanised Steel Application, page 10.

ZF80 and ZF30 or equivalents based on international standards and naming conventions.

The application stated that trade and other names often used to describe galvanised steel include:

- “GALVABOND®” steel;
- “ZINCFORM®” steel;
- “GALVASPAN®” steel;
- “ZINCHITEN®” steel;
- “ZINCANNEAL”steel;
- “ZINCSEAL”steel;
- Galv;
- GI;
- Hot Dip Zinc coated steel;
- Hot Dip Zinc/iron alloy coated steel; and
- Galvanneal.

Product Treatment

The galvanised steel application covers galvanised steel whether or not including any (combination of) surface treatment, for instance; whether passivated or not passivated, (often referred to as chromated or unchromated), oiled or not oiled, skin passed or not skin passed, phosphated or not phosphated (for zinc iron alloy coated steel only).

Goods excluded from investigation scope

Painted galvanised steel, pre-painted galvanised steel and electro-galvanised plate steel are not covered by the application and subsequent investigation.

<u>(ii) Aluminium zinc coated steel</u>

The imported goods the subject of the aluminium zinc coated steel application are described as:

> “*flat rolled products of iron and non-alloy steel of a width equal to or greater than 600mm, plated or coated with <u>aluminium-zinc</u> alloys, **not painted** whether or not including resin coating*”[10].

The amount of aluminium zinc coating on the steel is described as its coating mass and is nominated in g/m2 with the prefix being AZ (*Aluminium Zinc*). Common coating masses used are: AZ200, AZ150, AZ100, and AZ70.

The application stated that trade and other names often used to describe aluminium zinc coated steel, include:

- ZINCALUME® steel;

[10] Aluminium Zinc Coated Steel Application, page 10.

- GALVALUME® steel;
- Aluzinc, Supalume, Superlume, ZAM, GALFAN;
- Zinc aluminium coated steel;
- Aluminium zinc coated steel;
- Alu-Zinc Steel sheet in Coils;
- Al/Zn; and
- Hot Dipped 55% Aluminium-Zinc Alloy coated steel sheet in coil.

Product treatment

The aluminium zinc coated steel application covers aluminium zinc coated steel whether or not including any (combination of) surface treatment, for instance; whether passivated or not passivated, (often referred to as chromated or unchromated), resin coated or not resin coated (often referred to as Anti Finger Print (AFP) or not AFP), oiled or not oiled, skin passed or not skin passed.

Goods excluded from investigation scope

Painted aluminium zinc coated steel and pre-painted aluminium zinc coated steel are not covered by the application and subsequent investigation.

5.3.1 Product standards

The applications stated that:

> *"Typically each Australian and International Standard has a range of steel grades nominated as Commercial, Formable or Structural grades. The commercial/formable grades are those with mechanical properties suitable for general pressing and forming whereas the structural grades are those with guaranteed minimum properties that structural engineers utilize in the design of their final product designs"*.

<u>(i) Australia</u>

The Australian and New Zealand Standard Industrial Classification Code applicable to galvanised steel and aluminium zinc coated steel is category 2711.

<u>(ii) International</u>

There are a number of relevant International Standards for galvanised steel and aluminium zinc coated steel products (figures 1 and 2 refer) that cover a range of products through specific grade designations, including the recommended or guaranteed properties of each of these product grades.

(i) Galvanised steel

International Standards	Product Grade Names
General and Commercial Grades	
AS/NZS 1397	G1, G2
ASTM A 653/A 653M	CS type A, B and C
EN10346	DX51D, DX52D
JIS 3302	SGCC, SGHC
Forming, Pressing & Drawing Grades	
AS/NZS 1397	G3
ASTM A 653/A 653M	FS, DS type A and B
EN10346	DX53D, DX54D
JIS 3302	SGCD, SGCDD,
Structural Grades	
AS/NZS 1397	G250, G300, G350, G450, G500, G550
ASTM A 653/A 653M	33 (230), 37 (255), 40 (275), 50 (340), 55 (380), 80 (550)
EN10346	S220GD, S250GD, S280GD, S320GD, S350GD, S550GD
JIS 3302	SGC340, SGC400, SGC440, SGC490, SGC570 SGH340, SGH400, SGH440, SGH490, SGH570

Figure 1: International Standards for galvanised steel[11]

(ii) Aluminium zinc coated steel

International Standards	Product Grades
General and Commercial Grades	
AS/NZS 1397	G1, G2
ASTM A792	CS, type A, B and C
EN10346	DX51D, DX52D
JIS 3321	SGLCC
Forming, Pressing & Drawing Grades	
AS/NZS 1397	G3
ASTM A792	FS, DS
EN10346	DX53D, DX54D
JIS 3321	SGLCD, SGLCDD
Structural Grades	
AS/NZS 1397	G250, G300, G350, G450, G500, G550
ASTM A792	33 (230), 37 (255), 40 (275), 50 (340), 55 (380), 80 (550)
EN10346	S220GD, S250GD, S280GD, S320GD, S350GD, S550GD
JIS 3321	SGLC400, SGLC440, SGLC490, SGLC570

Figure 2: International Standards for aluminium zinc steel[12]

5.3.2 Tariff classification

(i) Galvanised steel

Galvanised steel is classified to tariff subheadings 7210.49.00 (and statistical codes 55, 56, 57 and 58) and 7212.30.00 (and statistical code 61) of Schedule 3 to the *Customs Tariff Act 1995* (Tariff Act).

The general rate of duty is currently 5% for goods imported under these tariff subheadings. Imports from China are subject to the DCS duty rate which is free.

[11] Galvanised Steel Application, page 11.
[12] Aluminium Zinc Coated Steel Application, page 11.

(ii) Aluminium zinc coated steel

Aluminium zinc coated steel is classified to tariff subheading 7210.61.00 (and statistical codes 60, 61, and 62) of Schedule 3 to the Tariff Act.

The general rate of duty is currently 5% for goods imported under this tariff subheading. Imports from China are subject to the DCS duty rate which is free.

5.3.3 Tariff Concession Orders (TCOs)

(i) Galvanised steel

Current tariff concessions

There are a number of TCOs currently in place applicable to the relevant tariff classification subheading 7210.49.00, which covers galvanised steel.

TC No.	Description
TC 0939596	STEEL, COIL, hot dip zinc coated, complying with Japanese Industrial Standard JIS G 3302:2007, having ALL of the following: (a) yield strength NOT less than 275 N/mm2 and NOT greater than 380 N/mm2; (b) tensile strength NOT less than 440 N/mm2; (c) elongation NOT less than 29% and NOT greater than 41%; (d) coating mass NOT less than 45 g/m2 and NOT greater than 65 g/m2; (e) thickness NOT less than 1.14 mm and NOT greater than 1.26 mm; (f) width NOT less than 1590 mm and NOT greater than 1605 mm
TC 1242989	COILS, non-alloy steel, hot rolled, zinc coated, complying with American Society for Testing and Materials Standard ASTM A 653/A 653M - 05a, having ALL of the following: (a) coil thickness NOT less than 3.5 mm and NOT greater than 6.0 mm; (b) coil width NOT less than 784 mm and NOT greater than 1 263 mm; (c) minimum yield strength NOT less than 330 Mpa; (d) minimum tensile strength NOT less than 430 Mpa; (e) coil inside diameter NOT less than 711 mm and NOT greater than 813 mm; (f) zinc coating mass NOT less than 0.080 kg/m2 per side; (g) each coil weighing NOT less than 14 metric tonnes; (h) chemical composition by weight of ALL of the following: (i) carbon content NOT greater than 0.20%; (ii) manganese content NOT less than 0.30% and NOT greater than 0.90%; (iii) phosphorus content NOT greater than 0.03%; (iv) sulphur content NOT greater than 0.03%; (v) chromium content less than 0.30%; (vi) molybdenum content less than 0.08%; (vii) aluminium content NOT greater than 0.10%; (viii) copper content NOT greater than 0.25%; (ix) nickel content NOT greater than 0.25%; (x) titanium content NOT greater than 0.04%; (xi) vanadium content less than 0.10%; (xii) silicon content NOT greater than 0.45%

TC 1317796	COILS, non-alloy steel, hot rolled, zinc coated, complying with American Society for Testing and Materials Standard ASTM A 653/A 653M - 05a, having ALL of the following: (a) coil thickness NOT less than 1.48 mm and NOT greater than 6.0 mm; (b) coil width NOT less than 784 mm and NOT greater than 1 263 mm; (c) minimum yield strength NOT less than 360 Mpa; (d) minimum tensile strength NOT less than 460 Mpa; (e) coil inside diameter NOT less than 711 mm and NOT greater than 813 mm; (f) zinc coating mass NOT less than 0.080 kg/m2 per side; (g) each coil weighing NOT less than 14 metric tonnes; (h) chemical composition by weight of ALL of the following: (i) carbon content NOT greater than 0.20%; (ii) manganese content NOT less than 0.50% and NOT greater than 1.00%; (iii) phosphorus content NOT greater than 0.03%; (iv) sulphur content NOT greater than 0.03%; (v) chromium content less than 0.30%; (vi) molybdenum content less than 0.08%; (vii) aluminium content NOT greater than 0.10%; (viii) copper content NOT greater than 0.25%; (ix) nickel content NOT greater than 0.25%; (x) titanium content NOT greater than 0.04%; (xi) vanadium content less than 0.1%; (xii) silicon content NOT greater than 0.45%
TC 1248929	STEEL, flat rolled, non-alloy steel, hot dipped galvannealed zinc coated, in coils, having ALL of the following: (a) yield strength NOT greater than 210 MPa; (b) tensile strength NOT less than 270 MPa; (c) total elongation NOT less than 40%; (d) total coating mass NOT less than 30 g/m2 and NOT greater than 70 g/m2 on each side; (e) in ANY of the following sizes: (i) thickness 0.75 mm and width 1 390 mm; (ii) thickness 0.75 mm and width 1 450 mm; (iii) thickness 0.75 mm and width 1 475 mm; (iv) thickness 0.75 mm and width 1 530 mm; (v) thickness 0.75 mm and width 1 565 mm; (vi) thickness 0.75 mm and width 1 640 mm; (vii) thickness 0.76 mm and width 1 220 mm; (viii) thickness 0.80 mm and width 1 350 mm; (ix) thickness 0.95 mm and width 820 mm; (x) thickness 1.00 mm and width 624 mm For the purposes of this Order, tolerances allowable for specification (e) are: (a) thickness +/- 10% (b) width +/- 1%
TC 1248930	STEEL, flat rolled, non-alloy steel, hot dipped galvannealed zinc coated, in coils, having ALL of the following: (a) yield strength NOT less than 190 MPa; (b) tensile strength NOT less than 340 MPa; (c) total elongation NOT less than 32%; (d) total coating mass NOT less than 30 g/m2 and NOT greater than 70 g/m2 on each side; (e) in ANY of the following sizes: (i) thickness 0.70 mm and width 865 mm; (ii) thickness 0.70 mm and width 980 mm;

	(iii) thickness 0.70 mm and width 1 225 mm; (iv) thickness 0.70 mm and width 1 244 mm; (v) thickness 0.70 mm and width 1 300 mm; (vi) thickness 0.70 mm and width 1 350 mm; (vii) thickness 0.70 mm and width 1 370 mm; (viii) thickness 0.70 mm and width 1 400 mm; (ix) thickness 0.70 mm and width 1 410 mm; (x) thickness 0.70 mm and width 1 455 mm; (xi) thickness 0.70 mm and width 1 500 mm; (xii) thickness 0.70 mm and width 1 585 mm; (xiii) thickness 0.70 mm and width 1 710 mm; (xiv) thickness 0.70 mm and width 1 720 mm; (xv) thickness 0.65 mm and width 865 mm; (xvi) thickness 0.65 mm and width 1 800 mm; (xvii) thickness 1.00 mm and width 1 160 mm For the purposes of this Order, tolerances allowable for specification (e) are: (a) thickness +/- 10% (b) width +/- 1%
TC 1349350	STEEL, flat rolled, non-alloy steel, hot dipped galvannealed zinc coated, in coils, having ALL of the following: (a) yield strength NOT less than 165 MPa and NOT greater than 325 MPa; (b) tensile strength NOT less than 270 MPa; (c) total elongation NOT less than 35% and NOT greater than 50%; (d) total coating mass NOT less than 45 g/m2 and NOT greater than 65 g/m2 on each side; (e) thickness 2.00 mm and width 1 070 mm For the purposes of this Order, tolerances allowable for specification (e) are: (a) thickness +/- 10% (b) width +/- 1%
TC 1349351	STEEL, flat rolled, non-alloy steel, hot dipped galvannealed zinc coated, in coils, having ALL of the following: (a) yield strength NOT less than 115 MPa and NOT greater than 305 MPa; (b) tensile strength NOT less than 270 MPa; (c) total elongation NOT less than 37% and NOT greater than 57%; (d) total coating mass NOT less than 35 g/m2 and NOT greater than 65 g/m2 on each side; (e) in ANY of the following sizes: (i) thickness 0.65 mm and width 870 mm; (ii) thickness 0.65 mm and width 930 mm; (iii) thickness 0.65 mm and width 1 150 mm; (iv) thickness 0.65 mm and width 1 640 mm; (v) thickness 0.65 mm and width 1 645 mm; (vi) thickness 0.65 mm and width 1 680 mm; (vii) thickness 0.65 mm and width 1 710 mm; (viii) thickness 0.70 mm and width 925 mm; (ix) thickness 0.70 mm and width 930 mm; (x) thickness 0.70 mm and width 1 000 mm; (xi) thickness 0.70 mm and width 1 005 mm; (xii) thickness 0.70 mm and width 1 010 mm; (xiii) thickness 0.70 mm and width 1 045 mm; (xiv) thickness 0.70 mm and width 1 455 mm; (xv) thickness 0.70 mm and width 1 485 mm;

	(xvi) thickness 0.70 mm and width 1 550 mm; (xvii) thickness 0.75 mm and width 1 135 mm; (xviii) thickness 0.75 mm and width 1 140 mm; (xix) thickness 0.75 mm and width 1 625 mm; (xx) thickness 0.75 mm and width 1 670 mm; (xxi) thickness 0.80 mm and width 1 060 mm; (xxii) thickness 0.80 mm and width 1 150 mm; (xxiii) thickness 0.80 mm and width 1 200 mm; (xxiv) thickness 1.00 mm and width 1 610 mm; (xxv) thickness 1.20 mm and width 1 595 mm; (xxvi) thickness 2.30 mm and width 985 mm For the purposes of this Order, tolerances allowable for specification (e) are: (a) thickness +/- 10% (b) width +/- 1
TC 1349352	STEEL, flat rolled, non-alloy steel, hot dipped galvannealed zinc coated, in coils, having ALL of the following: (a) yield strength NOT less than 155 MPa and NOT greater than 295 MPa; (b) tensile strength NOT less than 340 MPa; (c) total elongation NOT less than 34%; (d) total coating mass NOT less than 35 g/m2 and NOT greater than 65 g/m2 on each side; (e) in ANY of the following sizes: (i) thickness 0.70 mm and width 830 mm; (ii) thickness 0.70 mm and width 855 mm; (iii) thickness 0.75 mm and width 840 mm; (iv) thickness 0.75 mm and width 855 mm; (v) thickness 0.75 mm and width 1 630 mm; (vi) thickness 0.75 mm and width 1 645 mm; (vii) thickness 0.75 mm and width 1 683 mm; (viii) thickness 0.75 mm and width 1 700 mm; (ix) thickness 1.20 mm and width 1 170 mm; (x) thickness 1.20 mm and width 1 175 mm; (xi) thickness 1.20 mm and width 1 198 mm; (xii) thickness 1.60 mm and width 1 160 mm For the purposes of this Order, tolerances allowable for specification (e) are: (a) thickness +/- 10% (b) width +/- 1%
TC 1349354	STEEL, flat rolled, non-alloy steel, hot dipped galvannealed zinc coated, in coils, having ALL of the following: (a) yield strength NOT less than 235 MPa and NOT greater than 400 MPa; (b) tensile strength NOT less than 390 MPa; (c) total elongation NOT less than 28%; (d) total coating mass NOT less than 35 g/m2 and NOT greater than 65 g/m2 on each side; (e) in ANY of the following sizes: (i) thickness 2.00 mm and width 975 mm; (ii) thickness 2.30 mm and width 948 mm; (iii) thickness 2.30 mm and width 1 030 mm; (iv) thickness 2.30 mm and width 1 190 mm; (v) thickness 2.60 mm and width 1 230 mm For the purposes of this Order, tolerances allowable for specification (e) are: (a) thickness +/- 10%

	(b) width +/- 1%
TC 1304297	STEEL, flat rolled non-alloy, hot dipped galvannealed zinc coated, in coils, having ALL of the following: (a) yield strength NOT less than 275 MPa and NOT greater than 380 MPa; (b) tensile strength NOT less than 440 MPa; (c) elongation NOT less than 30%. (d) coating mass NOT less than 45 g/m2 and NOT greater than 65 g/m2 on each side; (e) thickness 2.00 mm and width 792 mm For the purposes of this Order, tolerances allowable for specification (e) are: (a) thickness +/- 10% (b) width +/- 1%

Tariff concessions under consideration

At the time of preparing this report there are eight TCO applications currently under consideration by ACBPS that are applicable to galvanised steel. They are as follows: TC 1312163, TC 1307948, TC 1308073, TC 1308115, TC 1308121, TC 1308125, TC 1309160 and TC 1310746.

(ii) Aluminium zinc coated steel

Current tariff concession orders

There are no TCOs applicable to the relevant tariff classification subheading for aluminium zinc coated steel.

Tariff concession orders under consideration

There are no tariff concession orders under consideration by ACBPS applicable to the relevant tariff classification subheading for aluminium zinc coated steel.

6 AUSTRALIAN INDUSTRY AND LIKE GOODS ASSESSMENT

6.1 ACBPS's assessment

Based on the verified information and data available, there is an Australian industry producing like goods to the goods the subject of the applications and these goods are wholly manufactured in Australia.

ACBPS clarifies that aluminium zinc coated steel is being investigated separately to galvanised steel, as is evident in separate countervailing margins calculated for each product and in ACBPS's approach to the investigation from the outset.

6.2 Locally produced like goods

Subsections 269T(2) and 269T(3) of the Act specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

Subsection 269T(1) of the Act defines like goods as:

> *"goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration*".

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are "like" to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, ACBPS assesses whether they have characteristics closely resembling each other against the following considerations:

i. physical likeness;
ii. commercial likeness;
iii. functional likeness; and
iv. production likeness.

6.3 Australian industry

BlueScope is a fully-integrated flat steel product manufacturer with large capital intensive manufacturing operations at Springhill and Port Kembla in New South Wales (NSW) and Western Port in Victoria (VIC). During the investigation period, BlueScope manufactured galvanised steel and aluminium zinc coated steel at both its Springhill (Port Kembla) and Western Port plants.

BlueScope manufactures HRC in Australia from liquid steel, via flat steel production. As Western Port no longer has a hot strip mill, hot rolled steel is transported from Port Kembla by sea or rail to be further processed into galvanised steel and aluminium zinc coated steel. The steel production process is capital intensive and BlueScope does not use imported steel in the manufacture of the goods.

Restructure

On 22 August 2011, BlueScope's board announced a restructure of its business and the closure of its export business. The restructure included the closure of No. 6 Blast Furnace at Port Kembla, the Western Port hot strip mill and the Western Port No. 5 Coating Line. In October 2011, the No. 5 Coating Line was closed; this was one of BlueScope's two aluminium zinc coating lines.

Taking into account the reduced production capacity of BlueScope as a result of the business restructure, ACBPS is satisfied that there continues to be an Australian industry (that is, BlueScope) wholly manufacturing the goods the subject of the investigations.

6.4 Production process

The sections below detail BlueScope's manufacturing process in respect of both galvanised steel and aluminium zinc coated steel. This process is described as two stages covering the production process for HRC and the conversion of HRC into the goods.

6.4.1 Stage 1 – HRC

The main raw materials used in the production of steel are iron ore, coal and fluxes (limestone and dolomite). The raw materials are fed into the top of the blast furnace in predetermined proportions and sequences. Air, which is heated to about 1200°C, is blown into the blast furnace. This causes the coke to burn, producing carbon monoxide which creates the required chemical reaction. The iron ore is reduced to molten iron by removing the oxygen. Molten iron and slag is periodically drained from the blast furnace and the molten iron is transported to the steelmaking area.

The basic oxygen steelmaking (BOS) process creates liquid steel from molten iron, scrap steel and alloying materials. The BOS vessel is charged and a lance that blows 99% pure oxygen onto the steel and iron causes the temperature to rise to about 1700°C. This melts the scrap, lowers the carbon content of the molten iron and helps remove unwanted elements. Samples are tested and computer analyses of the steel are done to ensure the desired chemistry is achieved. The steel can be further refined by adding alloying materials which give the steel special properties required by the customer. The liquid steel is cast into slabs of various dimensions so that it can be rolled.

During the investigation period BlueScope manufactured HRC on either of two hot strip mills. The slab is reheated in a furnace to obtain consistent temperature of around 1200°C. The heated slab is reduced in thickness by passing through a set of five or six rolling mill stands to produce HRC of the desired thickness and widths. The HRC is then transferred to the Springhill and Western Port coating mills.

6.4.2 Stage 2 - conversion process - coated steel with zinc and aluminum zinc

(i) Pickling

HRC is pickled to remove scale (iron oxide) formed during the hot rolling process. The HRC is unwound, side trimmed to the customers required width and passed through a bath of 70°C hydrochloric acid, washed, dried and recoiled.

(ii) Cold rolling

The pickled HRC is cold rolled to reduce the steel thickness. The cold rolling process is conducted at room temperature. The cold rolling process involves passing the HRC through a number of rolling mill stands to progressively reduce the thickness without changing the width. For example, a 1,200 metre coil of 2.5 mm thickness could be reduced to 0.5 mm thickness and 6,000 metres long. During the process the grain structure is elongated, making the steel hard and springy. This intermediate steel product is known as a Cold Rolled Fully Hard (CRFH) product.

(iii) Metal coating

The cold rolled coil is cleaned to remove any oils from the cold rolling process and any traces of surface oxide and is then annealed in an inert atmosphere furnace. Where formability is the prime requirement, the coil is fully annealed. Where high strength and limited formability is required, the coil is partially annealed.

The clean and annealed coil then passes from the furnace through a molten metal bath of the required composition where the molten metal chemically bonds to the steel surface. Thinner gauges of galvanised steel are coated with oil, but thicker gauges are produced bare. Aluminum zinc coated steel can be supplied with a range of surface treatments (passivation coating and a resin coating) to protect the service or supplied skin passed and without surface treatment for feed for paint lines.

6.4.3 Australian industry and production process finding

BlueScope is the sole producer of galvanised steel and aluminium zinc coated steel in Australia and wholly manufactures the goods. OneSteel ATM advised that during the investigation period it also produced galvanised hot rolled coil product for its own use. OneSteel ATM closed its strip galvanising plant in July 2012 and began importing zinc coated hot rolled coil from that time.

6.5 Like goods

(i) Galvanised steel

BlueScope manufactures flat rolled products of iron and non-alloy steel, of widths less than 600mm and widths equal to or greater than 600mm, plated or coated with zinc. Galvanised steel manufactured by BlueScope is marketed under the trade names “GALVABOND®”, “ZINCFORM®” “GALVASPAN®, “ZINCHITEN®” and “ZINCANNEAL” steel. These products are sold into the Australian market direct to manufacturing customers and via distributors.

BlueScope considers the locally produced goods are like products to the imported plated or coated flat rolled products of iron or steel, plated or coated with zinc. BlueScope submitted that:

> *"(a) <u>Physical likeness</u>*
>
> - *Products made locally by BlueScope have a physical likeness to the goods exported from China;*
> - *BlueScope's locally produced galvanised steel and the imported goods are manufactured to Australian and International Standards;*
>
> *(b) <u>Commercial likeness</u>*
>
> - *Australian industry galvanised steel competes directly with imported galvanised steel in the Australian market;*
>
> *(c) <u>Functional likeness</u>*
>
> - *Both the locally produced and imported galvanised steel have comparable or identical end-uses; and*
>
> *<u>(d) Production likeness</u>*
>
> - *Locally produced and imported galvanised steel are manufactured in a similar manner and via similar production processes.*
>
> *On this basis, BlueScope considers its locally-produced galvanised steel is "alike" to the imported goods, and possess the same essential characteristics as the imported galvanised steel"[13].*

<u>(ii) Aluminium zinc coated steel</u>

BlueScope manufactures 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 (whether or not including resin coating).

Aluminium zinc coated steel manufactured by BlueScope is marketed under the trade names "ZINCALUME®" and "TRUECORE®" steel. These products are sold into the Australian market direct to manufacturing customers and via distributors.

BlueScope considers the locally produced goods are like products to the imported plated or coated flat rolled products of iron or steel, plated or coated with aluminium-zinc alloys. BlueScope submitted that:

> *<u>"(a)Physical likeness</u>*
>
> - *Products made locally by BlueScope have a physical likeness to the goods exported from China;*

[13] Galvanised Steel Application, pages 12-13.

- *BlueScope's locally produced aluminium zinc coated steel and the imported goods are manufactured to Australian and International Standards;*

(b) Commercial likeness

- *Australian industry aluminium zinc coated steel competes directly with imported aluminium zinc coated steel in the Australian market;*

(c) Functional likeness

- *Both the locally produced and imported aluminium zinc coated steel have comparable or identical end-uses; and*

(d) Production likeness

- *Locally produced and imported aluminium zinc coated steel are manufactured in a similar manner and via similar production processes.*

On this basis, BlueScope considers its locally-produced aluminium zinc coated steel is "alike" to the imported goods, and possess the same essential characteristics as the imported aluminium zinc coated steel"[14].

6.6 Stakeholder claims in respect of like goods

A number of interested parties have made claims in relation to like goods, exemptions and the goods description[15]. Relevant submissions have been summarised below, followed by a discussion of each of the main issues raised:

Party	**Date of Submission**	**Goods issue**
Ace Gutters Pty Ltd	15/10/12 05/04/13	Unchromated product
GM Holden Ltd	15/10/12	Tailor-welded steel
B&R Enclosures	17/10/12	Supply of wide Zincanneal coil
Chinese Iron and Steel Association (CISA)	01/11/12	Goods description generally
Ford	01/11/12	Automotive steel
POSCO	23/11/12	Zero spangle

[14] Aluminium Zinc Coated Steel Application, pages 12-13.

[15] The dumping investigations and countervailing investigations are running concurrently. Interested parties did not specify in submissions whether the submission related to the dumping investigations and/or the countervailing investigations. ACBPS has assumed all submissions relating to goods and like goods relate to both types of investigation.

	08/04/13	
OneSteel ATM	27/11/12 08/04/13 19/04/13	Cold rolled coil v hot rolled coil
Ace Gutters Pty Ltd	30/11/12	Supply of Galvalume coil
GM Holden	14/12/12	Supply of wide galvanised coil
OneSteel ATM	17/01/13 26/03/13 08/04/13 19/04/13	Exempt goods subject to TCOs and unchromated product
GM Holden	07/01/13 08/04/13	Exempt certain goods for automotive use – tailor welded blanks and certain sizes.
CISA	15/01/13 22/02/13 08/04/13	Exempt goods not produced by BlueScope; galvanised steel widths greater than 1550mm, zero spangle, goods subject to TCOs current and future
Orrcon Steel	08/04/13	Exemptions – TCOs and zero spangle
Dongbu Steel	08/04/13	Unchromated product and goods description

Submissions by interested parties relating to the goods and like goods description

6.6.1 Tailor-welded steel

Tailor welded steel (also known as 'tailor welded blanks' or 'tailored blanks') consists of two galvanised steel coils of varying thickness and widths welded together using a curvature weld process.

By way of example the resulting coil may be have a thickness of 0.7 mm and width of 1,215 mm on one side and a thickness of 1.6mm and width of 1,011 mm on the other. ACBPS understands that these products are commonly used in automotive parts for passenger motor vehicles.

Tailor-welded steel not produced by BlueScope

Importers claim in their submissions that the Australian industry does not produce tailor welded coated steel to the specifications they require.

BlueScope has confirmed that it cannot manufacture tailor welded galvanised steel, however it does manufacture galvanised steel which may be further processed to produce welded steel (whether in sheets or customised form).

Is tailor-welded steel the goods?

ACBPS considers tailor welded steel falls within the goods description for the investigation, provided it meets the other specifications stated in the goods description (for example, galvanised coating).

There is nothing in the goods description for the investigation that prevents tailor welded steel from being subject to any measures imposed.

However, any interested parties who claim certain goods should be exempt from measures; including tailor welded steel may apply for an exemption from countervailing duties under section 10(8) of the Dumping Duty Act.

6.6.2 Zero spangle

The term ‘spangle’ refers to distinctive patterns that zinc coating leaves on coated steel. Most galvanised steel has a patterned ‘spangle’ on it; however it is possible to produce galvanised steel that has a non-spangle finish. Exporters claim that non-spangled or zero spangle finish is required for visible part of automotive vehicle bodies, such as the body, because 'spangles' would result in an uneven paint finish, making 'zero spangle' the only suitable product for this purpose.[16]

Zero spangle steel not produced by BlueScope

Submissions were received advising that the Australian industry does not produce zero spangle coated steel.

BlueScope has confirmed that it cannot manufacture zero spangle finish coated steel, however it does manufacture galvanised steel which has a minimal or small spangle.

Notwithstanding the above, BlueScope advised that it does not manufacture zero-spangled galvanised steel which is solely used for the exterior (i.e. exposed skin panels) of automobiles.

[16] POSCO submission, EPR 190/052, page 12.

Is zero spangle steel the goods?

ACBPS considers zero spangle finish falls within the goods description for the investigation, provided it meets the other specifications stated in the goods description (for example, galvanised coating).

There is nothing in the goods description for the investigation that prevents zero spangle finish steel from being subject to any measures imposed. However, any interested parties who wish for their goods to be exempt from measures, including zero spangle steel, may apply for an exemption from countervailing duties under the Dumping Duty Act.

6.6.3 Unchromated aluminium zinc coated steel

Unchromated coated steel is like to commonly produced aluminium zinc coated steel, however it does not have a protective surface treatment, making it more suitable for painting.

Unchromated product is a raw material input for painted aluminium zinc coated steel and is used as feed for a continuous coating line.

BlueScope's ability to produce unchromated coated steel

Interested parties have raised that BlueScope does not offer its unchromated GALVALUME product for sale to customers in Australia, or that if it does offer the product for sale, the terms are considered not commercially acceptable.

BlueScope confirmed with ACBPS that it is able to produce unchromated coated steel suitable for painting and advised that it does offer the product for sale on the Australian market.

Does BlueScope produce a like good?

ACBPS is satisfied that the imported and locally produced unchromated coated steel are like goods.

6.6.4 Hot rolled coil and cold rolled coil substrates

Galvanised and aluminium zinc coated steel may both be produced by coating either hot rolled coiled steel or cold rolled coiled steel. BlueScope produces its galvanised steel and aluminium zinc coated steel using a cold rolled coil (CRC) substrate. An importer, OneSteel ATM, has claimed that it requires galvanised steel produced using a HRC substrate to produce rectangular hollow sections (RHS), and accordingly BlueScope's product is not suitable for its purposes.

Is hot rolled coil substrate galvanised steel and aluminium zinc coated steel a like good to galvanised steel and aluminium zinc coated steel?

ACBPS is satisfied that the imported and locally produced coated steel are broadly like goods regardless of the hot rolled or cold rolled nature of the substrate used in production.

6.7 Other issues – goods description too broad

The Chinese Iron and Steel Association (CISA) has submitted that the goods description is 'overly broad' because CISA understood the goods description to include *both* aluminium zinc coated steel and galvanised steel in one investigation.[17]

GM Holden has submitted that it also believes the goods description is too broad. Specifically, GM Holden would like to see three separate investigations conducted into the three main market segments for each product it has identified.[18] GM Holden also submitted that the OEM Automotive market segment should be excluded from the goods description and from measures because of an absence of injury.

Several interested parties raised the concern that goods not able to be produced by BlueScope should not form part of the goods description for the purposes of the investigation. CISA submitted that all products with widths greater than 1550mm should be exempt given BlueScope cannot manufacture a product of this size. GM Holden also submitted that all products outside the capabilities of BlueScope should be exempt.

Customs considers that the limitation of BlueScope's ability to make certain sizes does provide a basis for an exemption to be granted in this circumstance, however, it would need to be assessed on a case by case basis and therefore, if anti-dumping measures are imposed, parties are invited to make an application for an exemption on this basis.

6.8 ACBPS's assessment - like goods

ACBPS found that BlueScope has demonstrated in relation to galvanised steel and aluminium zinc coated steel:

- *physical likeness* - the primary physical characteristics of imported and locally produced goods are similar (both are manufactured to achieve mechanical properties designated by Australian and international standards);
- *commercial likeness* - the imported and locally produced goods are commercially alike, directly competitive and are sold to common customers;
- *functional likeness* - the imported and locally produced goods are functionally alike as they have the same end-uses; and
- *production likeness* - the imported and locally produced goods are manufactured in a similar manner.

ACBPS considers that BlueScope produces like goods that are identical to, or have characteristics closely resembling, the goods.

[17] See CISA submission dated 17/12/12, page 1 and CISA submission dated 1/11/12, page 2.
[18] GM Holden submission dated 7 January 2013, page 5

7 EXEMPTION REQUESTS

7.1 ACBPS's assessment

ACBPS has received a number of written requests for exemptions from dumping duty and countervailing duty. After examination of the facts provided, ACBPS considers that there are grounds for some exemptions to be recommended to the Minister. ACBPS recommends that, if the Minister decides to exempt certain goods from dumping duty, the Minister exempt those same goods from countervailing duty.

7.2 Background

In the event that countervailing duty is imposed on galvanised steel and aluminium zinc coated steel exports from China, all grades, types and models of galvanised steel and aluminium zinc coated steel that conform to the goods description will be subject to the countervailing duty notice unless the Minister exempts particular goods.

The Minister has discretion to exempt goods subject to countervailing duties from that duty under the Dumping Duty Act. In particular, section 10(8) of the Dumping Duty Act specifies the following circumstances under which an exemption may be granted:

The Minister may, by notice in writing, exempt goods from interim countervailing duty and countervailing duty if he or she is satisfied:

(a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;

(aa) that a Tariff Concession Order under Part XVA of the Customs Act 1901 in respect of the goods is in force;

(b) that:

> *(i) where the goods are goods to which section 8 of the Customs Tariff Act 1995 applies—the item in Schedule 4 to that Act that applies to the goods is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law; and*
>
> *(ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available;*

(c) that:

> *(i) the tariff classification in Schedule 3 to that Act that applies to the goods is such that no duty is payable in respect of the goods or the duty payable in respect of the goods is at a rate equivalent to a rate payable under Schedule 4 on the goods; and*

(ii) suitably equivalent goods the produce or manufacture of Australia are not reasonably available; or

(d) that the goods, being articles of merchandise, are for use as samples for the sale of similar goods.[19]

7.3 Investigations 190a and 190b

ACBPS received a number of submissions from importers requesting that certain goods falling within the description of the goods be granted an exemption, and have produced arguments largely focussed on a TCO being in place or like goods not being offered for sale as grounds for granting that exemption.

ACBPS considered those claims for the purpose of the dumping investigations. ACBPS's final recommendation was contained in its final report, provided to the Minister on 30 April 2013. The Minister is yet to make a decision in relation to that report (REP 190) at the date of this report. ACBPS recommends to the Minister that, if the Minister decides to exempt certain goods from dumping duty, the Minister exempt those same goods from countervailing duty.

[19] Section 10(8), *Customs Tariff (Anti-Dumping) Act 1975.*

8 AUSTRALIAN MARKET

8.1 Findings

The Australian markets for galvanised steel and aluminium zinc coated steel are supplied by BlueScope and imports from China and imports from other countries.

Galvanised steel is supplied into the building and construction, manufacturing, automotive and transport primary market sectors. Aluminium zinc coated steel is supplied into the building and construction and manufacturing primary market sectors.

ACBPS estimates that in 2011-12 the size of the Australian market for galvanised steel was approximately 630,000 tonnes.

ACBPS estimates that in 2011-12 the size of the Australian market for aluminium zinc coated steel was approximately 220,000 tonnes

8.2 Market segmentation and demand variability

In the Australian market the key market segments for galvanised steel and aluminum zinc coated steel are the building and construction industry segment (largest consumer by volume) and the smaller manufacturing industry segment.

(i) Galvanised steel

In the building and construction industry examples of end use applications for galvanised steel include; commercial and industrial buildings light structural sections (purlins and girts); structural sections for carports, sheds and garages; plastering and ceiling accessories; garage door tracks; structural nail-plates, post stirrups, frame connectors and bracing for timber frames.

In the manufacturing industry examples of end use applications for galvanised steel include; feedstock as input for pipe and tube manufacture; air-conditioning ducting; cable trays; components in domestic appliances; hot water system components; electrical meter cabinets; tool-boxes; meter boxes; grain silos components and general manufactured articles.

Galvanised steel is supplied to automotive components (i.e. brakes parts) and Original Equipment Manufacturer (OEM) automotive markets.

End users (and end use applications) in the key market segments are the predominant drivers of demand for galvanised steel.

(ii) Aluminum zinc coated steel

In the building and construction industry examples of end use applications for aluminum zinc coated steel include; roll formed roof and wall cladding; rain water guttering and down-pipes; roof flashing and trims; residential roof trusses; residential roofing battens; ceiling battens; residential house framing; wall structural sections; office wall framing; garden sheds; and garage door panels.

In the manufacturing industry examples of end use applications for aluminum zinc coated steel include; components in domestic appliances; hot water system components; cabinets; flues; ducting; grain silos and general manufactured articles.

Aluminum zinc coated steel is not usually supplied to the auto components and OEM automotives market segments.

The application claims that the predominant drivers of demand for aluminum zinc coated steel in the two key Australian market segments include:

- *"residential construction, specifically, residential new dwelling construction, and investment in residential alterations and additions construction;*
- *commercial and industrial construction; and*
- *substitution into markets previously dominated by other materials including replacing timber for residential framing and replacing zinc coated steel products for structural framing in commercial / industrial internal partitioning and walling market20"*.

(iii) Both products

BlueScope stated that there are a variety of factors that influence demand variability for galvanised steel and aluminum zinc coated steel within the Australian market, including:

- seasonal fluctuations;
  - impacts on agriculture, such as silos depending on season;
  - building industry Christmas closures;
  - wet versus dry season in tropical climates;

- factors contributing to overall market growth or decline;
  - availability of capital for infrastructure spending;
  - general macro-economic factors such as bank interest rates;
  - global and domestic business and consumer confidence;

- government regulation;
  - standards – international manufacturers do not always manufacture to the same standards as Australian manufacturers (BlueScope claim that this is commonly not apparent until installation);
  - policy – major government spending on infrastructure (i.e. the school building revolution);
  - new home rebates – which can stimulate demand;

- short term pricing volatility;
  - pressure on Australian manufacturing to compete with imported finished products;
  - pressure and influence on purchasing decisions for inventory levels; and

[20] Aluminium Zinc Coated Steel Application, page 17.

- which is evident primarily in the indirect distribution channel; and influenced through global steel capacity utilisation.

8.3 Marketing and distribution

(i) Australian market and distribution diagram

BlueScope provided a marketing and distribution diagram in respect of the Australian markets for galvanised steel and aluminum zinc coated steel with the dumping applications. ACBPS notes that the diagram provides a detailed understanding of market flows, market participants and how imports and the Australian industry's products compete.

(ii) Galvanised steel

BlueScope stated that approximately one third[21] of total galvanised steel sales are made directly to the domestic building product manufacturing industry. This industry roll forms the galvanised steel into building products such as structural sections for commercial buildings, garages and sheds as well as structural decking. These manufacturers then distribute the manufactured products to builders.

BlueScope claimed that the balance of sales is made to either the local distribution market or direct to the general manufacturing and auto industries, including auto component manufacturers, pipe and tube manufacturers and racking manufacturers.

(iii) Aluminum zinc coated steel

BlueScope stated that a major proportion of aluminum zinc coated steel sales are made directly to the domestic building product manufacturing industry. This domestic building product manufacturing industry roll forms the aluminum zinc coated steel into building products such as building cladding. The building product manufacturers then distribute the manufactured products to builders and home owners.

BlueScope claimed that the balance of sales of aluminum zinc coated steel is made to either the local distribution market (through distributor / resellers such as OneSteel Limited, Southern Steel Supplies, BlueScope Distribution Pty Ltd) or direct to the general manufacturing industry. These distributors and resellers may offer a range of services such as smaller parcels of product, along with credit facilities and further processing (such as sheeting, slitting and blanking).

(iv) Both products

BlueScope's locally produced galvanized steel and aluminum zinc coated steel products and the imported products compete in all states and territories and across each segment through the same distribution channels. All customers have the opportunity to purchase imported material either direct from the overseas mill, through an international trader or from an Australian based stockist.

[21] Based on BlueScope's sales data this proportion was found to be slightly higher.

8.4 Market size

ACBPS estimated the size of the Australian markets for galvanised steel and aluminium zinc coated steel using import data from ACBPS's import data base and verified and unverified data provided by BlueScope, importers and exporters. ACBPS notes the following issues with the accuracy of data sets:

- Product finishes (for example, whether aluminium zinc coated steel is painted or unpainted) are not easily identifiable in the data sets. As product finishes cannot be easily identified in the data used to estimates market volumes, it is likely that some painted products which are outside the scope of the goods may be included in import volumes. The inclusion of these products may inflate import volumes and therefore Australian market sizes; and

- Specific production dimensions (including exact width and thickness of the goods) are not discernable in data sets. While the tariff subheadings and statistical codes provide indicative parameters regarding width and thickness of imported products, they provide guidance only in determining exact product dimensions of the imported goods.

Notwithstanding these issues, for the purposes of this report, ACBPS considers that the import data available is sufficient for estimating import volumes to assess the Australian market sizes for galvanised steel and aluminium zinc coated steel.

<u>(i) Galvanised steel</u>

The following graph depicts ACBPS's estimate of the Australian market size for galvanised steel using data from its import database and BlueScope's verified sales data. ACBPS estimates that in 2011-12 the size of the Australian market for galvanised steel was approximately 630,000 tonnes.

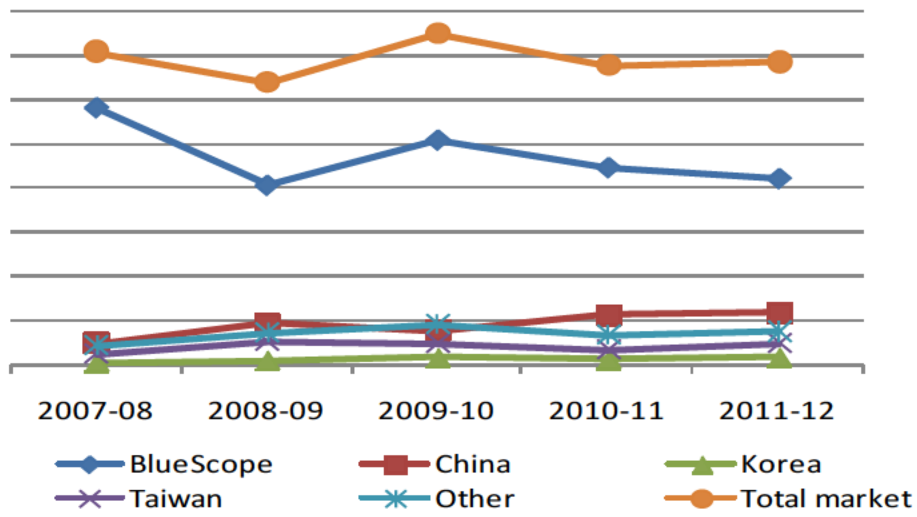

Figure 5: Australian market for galvanised steel - 2007-08 to 2011-12

The graph above shows that the total Australian market size for galvanised steel remained relatively constant (showing a marginal increase) from 2010-11 to 2011-12.

(ii) Aluminium zinc coated steel

The following graph depicts ACBPS's estimate of the Australian market size for aluminium zinc coated steel using data from its import database and BlueScope's verified sales data. ACBPS estimates that in 2011-12 the size of the Australian market for aluminium zinc coated steel was approximately 220,000 tonnes.

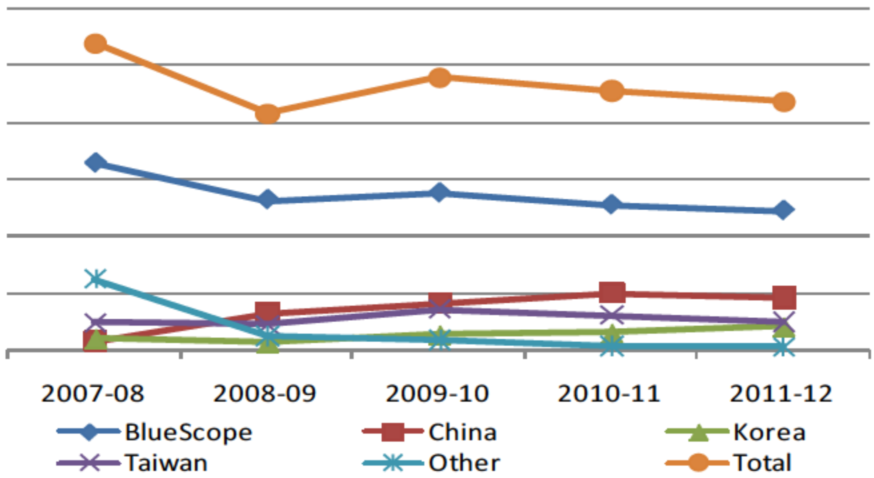

Figure 6: Australian market for aluminium zinc coated steel - 2007-08 to 2011-12

The graph above shows that the total Australian market size for aluminium zinc coated steel continually decreased during 2009-10 to 2011-12.

8.5 Alternative products

(i) Galvanised steel

BlueScope stated that other coated steel products are substitutable for galvanised steel including:

- 55% aluminum / zinc coated steel (also known as Aluzinc), 5% aluminum / zinc coated steel (also known as Galfan) and zinc / magnesium coated steel (for certain product applications); and
- painted metallic coated steel substitutes (including painted versions of the products listed above).

Inter-materials are also substitutable for galvanised steel depending on product end use, including:

- timber, hot rolled structural sections, load bearing concrete panels and masonry for framing applications in construction;
- plastic and composite materials such as conduits and ceiling and plaster fittings for non-framing products for the building industry; and
- aluminum, plastics or advanced composites for automotive applications.

BlueScope claimed that regardless of product substitutability, galvanised steel is considered by end users to be better product in the identified key applications.

(ii) Aluminium zinc coated steel

BlueScope stated that other coated steel products are substitutable for aluminum zinc coated steel including:

- galvanised steel products (for certain product applications), and
- painted metallic coated steel substitutes; such as painted aluminum zinc coated steel (e.g. COLORBOND® steel) or painted zinc coated steel.

Inter-materials are also substitutable for aluminum zinc coated steel depending on product end use, including:

- clay and cement roof tiles for domestic roofing applications;
- tilt up concrete panels and masonry bricks for industrial building walling;
- plastic and aluminum gutters and down pipes for rain water goods; and
- timber for residential or industrial / commercial structural framing applications (i.e. roof or wall framing).

BlueScope claimed that regardless of product substitutability, aluminum zinc coated steel is considered by end-users as a fit-for-purpose product that is better suited in the identified key applications to alternate substitutes "*due to its superior value proposition*"[22].

8.6 Importers

ACBPS performed a search of its import database and identified importers of galvanised steel and aluminium zinc coated steel.

ACBPS undertook visits to eight importers for the combined purpose of the dumping and countervailing investigations and prepared reports following the visits:

- Citic Australia Commodity Trading Pty Ltd
- Stemcor Australia Pty Ltd
- Marubeni-Itochu Steel Oceania Pty Ltd
- Minmetals Australia Pty. Ltd.
- Onesteel
- CMC (Australia) Pty Ltd
- GS Global Australia Pty.Ltd.
- GM Holden Ltd

The public record version of the visit reports can be found on the electronic public record.

[22] Aluminium Zinc Coated Steel Application, page 19.

9 ASSESSMENT OF COUNTERVAILABLE SUBSIDIES

9.1 Findings

After considering all relevant information, ACBPS found that countervailable subsidies have been received in respect of galvanised steel and aluminium zinc coated steel exported to Australia from China, under the following subsidy programs:

No.	Program Name
1	Hot rolled steel provided by government at less than adequate remuneration
2	Coking coal provided by government at less than adequate remuneration
3	Coke provided by government at less than adequate remuneration
4	Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones
5	Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years
6	Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)
7	Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai
8	Preferential Tax Policies in the Western Regions
9	Land Use Tax Deduction
10	Preferential Tax Policies for High and New Technology Enterprises
11	Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipment
12	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'
13	Matching Funds for International Market Development for Small and Medium Enterprises
14	Superstar Enterprise Grant
15	Research & Development (R&D) Assistance Grant
16	Patent Award of Guangdong Province
17	Innovative Experimental Enterprise Grant
18	Special Support Fund for Non State-Owned Enterprises
19	Venture Investment Fund of Hi-Tech Industry
20	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.
21	Grant for key enterprises in equipment manufacturing industry of Zhongshan
22	Water Conservancy Fund Deduction
23	Wuxing District Freight Assistance
24	Huzhou City Public Listing Grant
25	Huzhou City Quality Award
26	Huzhou Industry Enterprise Transformation & Upgrade Development Fund

27	Wuxing District Public List Grant
28	Anti-dumping Respondent Assistance
29	Technology Project Assistance
30	Capital injections
31	Environmental protection grant
32	High and New Technology Enterprise Grant
33	Independent Innovation and High-Tech Industrialisation Program
34	VAT refund on domestic sales by local tax authority
35	Environmental Prize
36	Jinzhou District Research and Development Assistance Program

ACBPS has calculated the following subsidy margins for each cooperating exporter individually and for non-cooperating exporters collectively:

Galvanised steel

Manufacturer / exporter	Subsidy margin
ANSTEEL	Negligible
TAGAL	Negligible
Wuhan Iron and Steel Company Limited	12.5%
Yieh Phui Technomaterial Co., Ltd	5.2%
All other exporters	22.8%

Aluminium zinc coated steel

Manufacturer / exporter	Subsidy margin
ANSTEEL	Negligible
Union Steel China Co., Ltd	7.9%
Yieh Phui Technomaterial Co., Ltd	5.0%
Jiangyin Zong Cheng	10.3%
All other exporters	21.7%

Details of calculations are at **Confidential Attachment 1**

9.2 Introduction

This section details ACBPS's assessment of the subsidy programs investigated in relation to galvanised steel and aluminium zinc coated steel exported from China.

9.2.1 Investigated programs

ACBPS considered that the application had presented reasonable grounds for the publication of a countervailing duty notice in respect of 29 alleged subsidy programs, and ACBPS commenced investigations into these programs.

During its investigations with cooperating Chinese galvanised steel and/or aluminium zinc coated steel exporters, ACBPS identified potential additional countervailable subsidy programs in respect of galvanised steel and/or aluminium zinc coated steel products. Seven of the additional programs identified were found to be countervailable subsidy programs in relation to the current investigations.

The countervailability of each of these programs, and the subsidy amount received by Chinese exporters under each of these programs, is detailed in this section.

9.2.2 The Act

Subsidy is defined in s269T of the Act. Section 269TACC of the Act further defines a countervailable subsidy and directs how to determine whether benefits have been conferred by a subsidy and the amount of this benefit.

9.2.3 Information relied upon

In addition to the information contained in BlueScope's applications, ACBPS has had regard to the following in arriving at the findings regarding countervailable subsidies:

- the responses from the GOC to the Government Questionnaire (GQ), Supplementary Government Questionnaire(SGQ) and Second Supplementary Government Questionnaire (SSGQ);
- responses to the exporter questionnaires, and supplementary exporter questionnaires, by cooperating exporters, and information gathered from and verified with these exporters;
- submissions in response to SEF 193;
- Information submitted to ACBPS's recent investigation into HSS (INV 177), and ACBPS's analysis and findings in that investigation; and
- open source research in relation to coking coal and coke.

9.2 Programs investigated in current investigations

The applicant submitted that 27 subsidy programs previously found to be countervailable by ACBPS in REP 177 (Appendix B of REP 177 refers) are applicable to galvanised steel and aluminium zinc coated steel. In addition to the 27 programs, two new programs (programs 2 and 3) were identified by the applicant.

As discussed above, additional programs were identified by ACBPS during the course of the investigations.

The table below summarises the countervailable subsidy programs being investigated in the current investigations (the last column in the table below refers to the corresponding program number in the HSS investigation).

Program Number	Program Name	Program Type	INV 177 corresponding Program Number
1	Hot rolled steel provided by government at less than adequate remuneration	Less than adequate remuneration	20
2	Coking coal provided by government at less than adequate remuneration	Less than adequate remuneration	N/A
3	Coke provided by government at less than adequate remuneration	Less than adequate remuneration	N/A
4	Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and Economic and Technological Development Zones	Income Tax	1
5	Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years	Income Tax	10
6	Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)	Income Tax	11
7	Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai	Income Tax	12
8	Preferential Tax Policies in the Western Regions	Income Tax	13
9	Land Use Tax Deduction	Income Tax	29
10	Preferential Tax Policies for High and New Technology Enterprises	Income Tax	35
11	Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipment	Tariff & VAT	14
12	One-time Awards to Enterprises Whose Products Qualify for ‘Well-Known Trademarks of China’ and ‘Famous Brands of China’	Grant	2
13	Matching Funds for International Market Development for Small and Medium Enterprises	Grant	5
14	Superstar Enterprise Grant	Grant	6
15	Research & Development (R&D) Assistance Grant	Grant	7
16	Patent Award of Guangdong Province	Grant	8
17	Innovative Experimental Enterprise Grant	Grant	15
18	Special Support Fund for Non State-Owned Enterprises	Grant	16

Program Number	Program Name	Program Type	INV 177 corresponding Program Number
19	Venture Investment Fund of Hi-Tech Industry	Grant	17
20	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.	Grant	18
21	Grant for key enterprises in equipment manufacturing industry of Zhongshan	Grant	19
22	Water Conservancy Fund Deduction	Grant	21
23	Wuxing District Freight Assistance	Grant	22
24	Huzhou City Public Listing Grant	Grant	23
25	Huzhou City Quality Award	Grant	27
26	Huzhou Industry Enterprise Transformation & Upgrade Development Fund	Grant	28
27	Wuxing District Public List Grant	Grant	30
28	Anti-dumping Respondent Assistance	Grant	31
29	Technology Project Assistance	Grant	32

The table below summarises additional countervailable subsidy programs investigated by ACBPS following receipt of information during the course of the investigations:

New Program identified during the course of the investigations	Program Name (New)	Program Type	Case 177 Program Number
30	Capital injection	Equity	NA
31	Environmental protection grant	Grant	NA
32	High and New Technology Enterprise Grant	Grant	NA
33	Independent Innovation and High-Tech Industrialisation Program	Grant	NA
34	VAT refund on domestic sales by local tax authority	Tariff and VAT	NA
35	Environmental Prize	Grant	NA
36	Jinzhou District Research and Development Assistance Program	Grant	NA

9.3 Co-operation

When the investigations were initiated ACBPS wrote to all Chinese exporters of galvanised steel and aluminium zinc coated steel identified in its import database and invited them to participate in the investigations by completing a questionnaire.

ACBPS received questionnaires from the following five exporters of galvanised steel and aluminium zinc coated steel:

- ANSTEEL;
- TAGAL;
- Union Steel China;
- Yieh Phui (China) Technomaterial Co., Ltd (Yieh Phui China); and
- Jiangyin Zong Cheng Steel Co., Ltd (Zong Cheng).

ACBPS visited ANSTEEL, TAGAL, Yieh Phui China and Union Steel China to verify the information contained in the questionnaire responses, in conjunction with verification visits for the dumping investigations. Due to its volume of exports relative to other exporters, ACBPS did not visit Zong Cheng but assessed its subsidy benefit on the basis of information contained in the questionnaire response.

ACBPS received a response from one exporter that cooperated with the dumping investigations – Wuhan Iron and Steel Company (Wuhan) – that it would not cooperate with the countervailing investigation. Wuhan cooperated with the dumping investigations and information relevant to the subsidy investigation was provided as part of its response to those investigations. This information has been used in the assessment of benefits received by Wuhan.

9.3.1 Submissions to SEF193 and ACBPS' assessment

Public Bodies

Submissions were received from the GOC and Union Steel China regarding public body findings by ACBPS.

In SEF 193 ACBPS determined that SIE suppliers of HRC, coking coal and coke in China are public bodies. The detailed discussion and public body determination is at Appendix 1 (also contained in Appendix 1 of SEF 193).

The GOC and Union Steel China stated that public body findings by the ACBPS based on REP 203 (the reinvestigation of HSS) are incorrect. The GOC stated that REP 203 contains major flaws of evidence and of logic in relation to the ultimate finding that SIEs are public bodies. The GOC also stated that ACBPS did not correctly interpret the ruling by the WTO Appellate Body in relation to DS379.

Union Steel China claims that its suppliers of HRC are not public bodies. It also claimed that from its observations and practical experience in China, the SIEs that it deals with are commercially operated enterprises that are subject to market forces that are at play in the Chinese market.

ACBPS did not solely base its public body findings on REP 203. ACBPS considered that the evidence and reasons set out in REP 203, while made in relation to consideration of HRC producers and suppliers, are equally applicable to SIE producers and suppliers of coke and coking coal.

ACBPS acknowledges that there is no specific provision in the WTO Agreement on Subsidies and Countervailing Measures (SCM agreement) or in the legislation that defines “public body”. Therefore, ACBPS used the indicia applied in DS379 to determine that the SIEs supplying HRC, coking coal and coke to the exporters of galvanised steel and aluminium zinc coated steel are “public bodies”. The detailed discussion of the public body findings is at Appendix 1 of this report.

9.4 Program1: Hot Rolled Steel provided by government at less than adequate remuneration

Background

BlueScope has alleged that Chinese exporters of galvanised steel and aluminium zinc coated steel have benefited from the provision of raw material in the form of hot rolled steel/coil (HRC) by the GOC at less than adequate remuneration.

In particular it was claimed that HRC, the main input used in the manufacture of galvanised steel and aluminium zinc coated steel, was being produced and supplied by SIEs in China at less than adequate remuneration.

During this investigation it has been established that some Chinese producers and exporters of galvanised steel and aluminium zinc coated steel were ‘integrated producers’ while others were ‘non-integrated’. The integrated producers manufacture their main raw material, HRC, while the non-integrated producers purchase HRC to produce those goods.

The definition of a subsidy under s.269T(a)(ii) includes reference to ‘a financial contribution by a government or any public body’.

The application alleges that Chinese SIEs that produce HRC are public bodies, and that a financial contribution in the form of provision of raw material inputs (HRC) at less than adequate remuneration by these SIEs to galvanised steel and aluminium zinc coated steel producers constitutes a countervailable subsidy.

ACBPS’s assessment of whether SIEs producing HRC constitute a public body in the meaning of s.269T(a)(ii) is discussed in Appendix 1 of this report.

This assessment concludes that these Chinese SIEs that produce HRC are ‘public bodies’ for the purposes of s.269T, and the remainder of this section continues on the basis of this finding.[23]

Under this program, a benefit to exported galvanised steel and aluminium zinc coated steel is conferred by HRC being provided by the GOC (through SIEs) at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions in China.

ACBPS’s assessment of what constitutes ‘adequate remuneration’ for HRC in China is contained in Appendix 2 of this report.

[23] If it were to be determined that these SIEs are not ‘public bodies’, this program would not meet the definition of a ‘subsidy’ in s.269T.

ACBPS requested information from all Chinese exporters in relation to their purchases of HRC during the investigation period. For each supplier of HRC, the Chinese galvanised steel and aluminium zinc coat steel exporters were required to identify whether the supplier was a trader or manufacturer of the goods. Where the supplier was not the manufacturer of the goods, each exporter was asked to identify the manufacturer.

Information presented by non-integrated exporters showed that SIEs were significant suppliers of HRC to galvanised steel and aluminium zinc coated steel exporters. This is further supported by information provided by the GOC in response to the GQ and SSGQ, which showed the share of total domestic HRC production in China by SIEs to be significant.

HSS Re-investigation

In response to GQ (GQ B-1 refers), the GOC stated that program 1 (program 20 referred in HSS investigation (INV177)), does not exist. The GOC stated that "…*there is no evidence that would satisfy those legal tests. Therefore, the GOC submits that 'program 1' is not relevant to this investigation.*

The GOC also stated that as part of his review of INV177, the Trade Measures Review officer in his report to the Minister recommended ACBPS reinvestigate 'program 20'. On 14 January 2013, the Minister accepted the TMRO's recommendation and requested that the CEO of ACBPS reinvestigate a number of findings, including Program 20.

ACBPS completed its reinvestigation and provided a report to the Minister (REP 203). On 13 May 2013, notice of the Minister's decision to affirm the findings in INV177 – including the finding relating to Program 20 – was published in *The Australian* newspaper.

Legal Basis

ACBPS has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).

WTO Notification

ACBPS is not aware of any WTO notification in respect of this program.

Eligibility Criteria

There are no articulated eligibility criteria for enterprises receiving HRC at less than adequate remuneration.

Is there a subsidy?

Based on the information above, ACBPS considers that this program involves a financial contribution that involves the provision of the goods (HRC) by SIEs, being public bodies, at less than adequate remuneration.

As Chinese exporters use HRC in their production of galvanised steel and aluminium zinc coated steel, it is considered this financial contribution is made in respect of the production, manufacture or export of the goods.

Where the financial contribution involves a direct transaction between the public bodies and the exporters of galvanised steel and/or aluminium zinc coated steel, ACBPS considers that this financial contribution confers a direct benefit to the extent that the goods were provided at less than adequate remuneration, as determined by ACBPS.

Where the financial contribution involves the provision of HRC by public bodies to private intermediaries that then trade those inputs to the exporters of galvanised steel and aluminium zinc coated steel, ACBPS considers, in accordance with s.269T(2AC)(a), that an indirect benefit is conferred in relation to the exported goods to the extent that the benefits conferred to the private intermediaries are passed-through to the exporters of galvanised steel and/or aluminium zinc coated steel by way of HRC being provided at less than adequate remuneration.

These benefit amounts are equal to the amount of the difference between the purchase price and the adequate remuneration.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received a financial contribution of HRC under the program at less than adequate remuneration, it would therefore confer a benefit in relation to galvanised steel and/or aluminium zinc coated steel, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

As provided for in s.269TAAC(4)(a), the Minister may determine that a subsidy is specific, having regard to the fact that the subsidy program benefits a limited number of particular enterprises.

Given that HRC is a key input in the manufacture of downstream products (including galvanised steel and aluminium zinc coated steel) it is clear that only enterprises engaged in the manufacture of these products would benefit from the provision of the input by the GOC at less than adequate remuneration.

As such the subsidy is determined to be specific and countervailable.

The amount of subsidy in respect of the goods

Cooperating exporters

ACBPS found that three of the five cooperating exporters were non-integrated producers and received a financial contribution that conferred a benefit under this program during the investigation period through the purchase of HRC at less than adequate remuneration from SIEs (as public bodies), under s.269TACC(4)(d)in accordance with s.269TACC(3)of the Act.

Purchases of HRC manufactured by SIEs were identified for each selected non-integrated co-operating exporter with reference to the ‘HRC Purchases’ spreadsheet supplied by each exporter, which listed each exporter’s purchases of HRC during the investigation period. This spreadsheet identified whether each listed purchase was HRC manufactured by an SIE or not.

The data reported in these HRC purchases spreadsheets were verified with those cooperating exporters that underwent in-country verification, and examined without verification for the remaining one cooperating Chinese exporter (Zong Cheng).

Using this data, each purchase of HRC from an SIE was assessed for adequate remuneration.

In accordance with s.269TACC(5), the adequacy of remuneration was determined by reference to a ‘benchmark’ for adequate remuneration, established having regard to the prevailing market conditions in China (discussed in detail in Appendix 2).

In accordance with s.269TACC(6)(d), the amount of subsidy attributable to the benefit has been determined as the difference between adequate remuneration (as established) and the actual purchase price paid for HRC incurred by the selected non-integrated cooperating exporters in purchasing these goods from SIEs.

In accordance with s.269TACC(10), the amount of subsidy received in respect of galvanised steel and aluminium zinc coated steel has been apportioned to each unit of galvanised steel and aluminium zinc coated steel using the total sales volume of the relevant cooperating exporters.

ACBPS determined that fully integrated exporters did not purchase any HRC from SIEs. As such ACBPS calculated a zero amount of a subsidy under this program for ANSTEEL and TAGAL.

Non-cooperating exporters

Wuhan cooperated with the dumping investigations and ACBPS is satisfied that it is an integrated manufacturer of galvanised steel and aluminium zinc coated steel, and therefore does not purchase HRC. As such ACBPS calculated a zero amount of subsidy under this program for Wuhan.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves to identify whether a financial contribution has been received under this program.

However, considering the facts that:

- all galvanised steel and aluminium zinc coated steel exported from China is made using HRC;

- a significant proportion of Chinese enterprises that produce HRC are known to be SIEs;
- non-integrated cooperating exporters purchased a significant amount of HRC from SIEs during the investigation period;

it is considered likely that at least some non-cooperators are non-integrated and purchased HRC from SIEs and therefore received a financial contribution under this program.

In the absence of information that demonstrates the volume of HRC purchased from SIEs by non-cooperating exporters, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

In accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters would have had benefits conferred to them under this program by this financial contribution, and has calculated the amount of subsidy attributable to that benefit by reference to the highest individual subsidy rate of the three cooperating non-integrated exporters (in the absence of other reliable information).

9.4.1 Submissions to SEF193 and ACBPS' response

Use of SBB data

In SEF 193 ACBPS preliminarily determined that an appropriate benchmark for HRC costs in China is the weighted average domestic HRC price paid by cooperating exporters of galvanised steel and aluminium zinc coated steel from Korea[24] and Taiwan[25], at comparable terms of trade and conditions of purchase to those observed in China.

BlueScope submitted that whilst it is supportive of ACBPS' nominated benchmark methodology, it considered that the proposed benchmark in SEF 193 is not a publically available price that can be readily referred to in future review and/or duty assessment investigations.

BlueScope suggested that the appropriate benchmark methodology is the Japanese domestic HRC price, FOT truck as published by SBB.

ACBPS acknowledges that SBB is a reliable source of information pertaining to steel prices; however in the present case ACBPS considers that verified data pertaining to actual prices paid for HRC during the investigation period is appropriate for use as a benchmark.

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[24] Dongbu Steel and Union Steel.

[25] Chung Hung Steel, Yieh Phui Enterprise and Sheng Yu Steel.

External benchmark chosen

The GOC submitted that there is no provision in the SCM to use an external benchmark and even if so the SEF does not demonstrate that the benchmark has been chosen having regard to prevailing market conditions in China. The Appellate Body finding refers to the benchmark having to "reflect price, quality, availability, marketability, transportation and other conditions of purchase or sale" in the domestic market.

The issue of an appropriate benchmark for determining adequate remuneration for HRC was discussed in Appendix 2 of SEF 193. That analysis is repeated in Appendix 2 of this report. Three options for determining a benchmark, in order of preference based on World Trade Organisation (WTO) Appellate Body findings, were considered by ACBPS:

- private domestic prices;
- import prices; and
- external benchmarks.

Appendix 2 sets out the reasons why ACBPS considers that private domestic prices and import prices are unsuitable for determining adequate remuneration. ACBPS has determined that an appropriate benchmark for HRC costs in China is the weighted average domestic HRC price paid by cooperating exporters of galvanised steel and aluminium zinc coated steel from Korea[26] and Taiwan[27]. ACBPS has assessed the benchmark at comparable terms of trade and conditions of purchase to those observed in China. ACBPS has no evidence that the quality and availability of HRC in Korea and Taiwan is dissimilar to that available in China. ACBPS therefore considers that its benchmark reflects the price, quality, availability, marketability, transportation and other conditions of purchase or sale in the Chinese market.

Exclusion of import prices from benchmark

Union Steel China submitted that the calculation of benchmark prices used by ACBPS to determine competitive market prices of HRC in China is incorrect because ACBPS excluded the prices of imported HRC purchased by Korean and Taiwanese exporters.

ACBPS excluded all HRC imported by the cooperating Korean and Taiwanese exporters. In determining a benchmark for HRC, ACBPS sought to determine a price reflective of domestic prices in China absent government influence or subsidisation. ACBPS considers it is reasonable to conclude the availability of domestically produced HRC in China is such that Chinese manufacturers of galvanised steel and aluminium zinc coated steel would source the majority if not all of their HRC supply locally. This conclusion is supported by evidence provided in the questionnaire responses from cooperating Chinese exporters. As such, a domestic purchase price was selected as the benchmark.

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[26] Dongbu Steel and Union Steel.
[27] Chung Hung Steel, Yieh Phui Enterprise and Sheng Yu Steel.

ACBPS notes that, except for one exporter, the volume of HRC imported by the manufacturers that were included in the benchmark was minimal. As such, even if imports were included it is likely to have a negligible effect on the weighted average benchmark.

Double counting – dumping and subsidy margins

Yieh Phui China stated that HRC costs have been adjusted (uplifted for HRC costs) in determining the dumping margin. It claims that as such, appropriate adjustments should be made when calculating the subsidy margin to avoid double remedies.

In section 13 of this report (and also in section 13 of SEF 193), ACBPS detailed the methodology as to how the measures are calculated and recommended to the Minister. ACBPS' approach avoids any overlap or double-counting that may arise from the circumstances in the case where there are domestic subsidies and a constructed normal value that includes a major component that is based on surrogate data.

HRC Purchases from ANSTEEL

Yieh Phui China submitted that it purchased HRC from ANSTEEL in the investigation period. Yieh Phui China referred to SEF 193 that included the preliminarily finding that the subsidy margin applicable to ANSTEEL was negligible. Yieh Phui China submitted that in the final report, ACBPS should recalculate Yieh Phui China's subsidy margin based on the record evidence of ANSTEEL's actual amount of subsidy received in relation to its sales of HRC in the Chinese domestic market.

Yieh Phui China's submission incorrectly correlates the concepts of a subsidy received by ANSTEEL in relation to its costs of production and the price ANSTEEL charges its customers for HRC.

In the dumping investigations ACBPS found that the cost of HRC in the books and records of Chinese manufacturers of galvanised steel and aluminium zinc coated steel did not reflect competitive market costs. The cost of HRC to the coated steel manufacturer is the price of HRC charged by HRC manufacturers. ACBPS found that the iron and steel industry in China was affected by a range of government influences, which affected the price of HRC. ACBPS considers that the price charged by ANSTEEL to Yieh Phui China for HRC is not solely a function of its costs of production, such that it could be said if the subsidy in respect of coking coal was adjusted for the resulting price would reflect a competitive market price. ACBPS considers that a number of factors have affected the market for HRC in China and these would impact ANSTEEL's price to Yieh Phui China (and other customers).

ACBPS observes that ANSTEEL's domestic sales of HRC during the investigation period were at a loss and ANSTEEL as a whole operated at a loss during the investigation period. ACBPS also found that ANSTEEL was in receipt of a number of capital injections from the Government of China both during, and prior to, the investigation period. This suggests that ANSTEEL and its shareholder (the GOC) are not operating subject to ordinary commercial considerations and that the price of HRC can be set independently of the costs of production, whether or not they are themselves subsidised.

9.5 Program 2: Coking coal provided by government at less than adequate remuneration

Background

BlueScope has alleged that Chinese exporters of galvanised steel and aluminium zinc coated steel have benefited from the provision of raw material in the form of coking coal by the GOC at less than adequate remuneration.

In particular it was claimed that coking coal, one of the main raw materials used in the manufacture of HRC, which is in turn used for the manufacture of galvanised steel and aluminium zinc coated steel, was being produced and supplied by SIEs in China at less than adequate remuneration.

During this investigation it has been established that some Chinese producers and exporters of galvanised steel and aluminium zinc coated steel were 'integrated producers' while others were 'non-integrated'. The integrated producers manufacture HRC using coking coal as one of the raw materials, while the non-integrated producers purchase HRC to produce those goods.

The definition of a subsidy under s.269T(a)(ii) includes reference to 'a financial contribution by a government or any public body'.

The application alleges that Chinese SIEs that produce coking coal are public bodies, and that a financial contribution in the form of provision of raw material inputs (coking coal) at less than adequate remuneration by these SIEs to manufacturers of galvanised steel and aluminium zinc coated steel constitutes a countervailable subsidy.

ACBPS's assessment of whether SIEs producing coking coal constitute a public body in the meaning of s.269T(a)(ii) is discussed at Appendix 1 of this report.

This assessment concludes that these Chinese SIEs that produce coking coal are 'public bodies' for the purposes of s.269T, and the remainder of this section continues on the basis of this finding.[28]

Under this program, a benefit to exported galvanised steel and aluminium zinc coated steel is conferred by coking coal being provided by the GOC (through SIEs) at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions in China.

ACBPS's assessment of what constitutes 'adequate remuneration' for coking coal in China is contained in Appendix 3 of this report.

[28] If it were to be determined that these SIEs are not 'public bodies', this program would not meet the definition of a 'subsidy' in s.269T.

ACBPS requested information from all Chinese exporters in relation to their purchases of coking coal during the investigation period. For each supplier of coking coal, the Chinese galvanised steel and aluminium zinc coat steel exporters were required to identify whether the supplier was a trader or manufacturer of the goods. Where the supplier was not the manufacturer of the goods, each exporter was asked to identify the manufacturer.

Information presented by fully integrated exporters showed that SIEs were significant suppliers of coking coal to galvanised steel and aluminium zinc coated steel exporters.

Legal Basis

ACBPS has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).

WTO Notification

ACBPS is not aware of any WTO notification in respect of this program.

Eligibility Criteria

There are no articulated eligibility criteria for enterprises receiving coking coal at less than adequate remuneration.

Is there a subsidy?

Based on the information above, ACBPS considers that this program involves a financial contribution that involves the provision of the goods (coking coal) by SIEs, being public bodies, at less than adequate remuneration.

As Chinese fully integrated exporters use coking coal in their production of galvanised steel and aluminium zinc coated steel, it is considered this financial contribution is made in respect of the production, manufacture or export of the goods.

Where the financial contribution involves a direct transaction between the public bodies and the fully integrated exporters of galvanised steel and/or aluminium zinc coated steel, ACBPS considers that this financial contribution confers a direct benefit to the extent that the goods were provided at less than adequate remuneration, as determined by ACBPS.

Where the financial contribution involves the provision of coking coal by public bodies to private intermediaries that then trade those inputs to the exporters of galvanised steel and aluminium zinc coated steel, ACBPS considers, in accordance with s.269T(2AC)(a), that an indirect benefit is conferred in relation to the exported goods to the extent that the benefits conferred to the private intermediaries are passed-through to the exporters of galvanised steel and/or aluminium zinc coated steel by way of coking coal being provided at less than adequate remuneration.

These benefit amounts are equal to the amount of the difference between the purchase price and the adequate remuneration.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received a financial contribution of coking coal under the program at less than adequate remuneration, it would therefore confer a benefit in relation to galvanised steel and/or aluminium zinc coated steel, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

As provided for in s.269TAAC(4)(a), the Minister may determine that a subsidy is specific, having regard to the fact that the subsidy program benefits a limited number of particular enterprises.

Customs and Border Protection understands that coal can be classified into two categories – thermal coal used for heat generation and metallurgical coal. The form of coking coal examined in this investigation is metallurgical coking coal. ACBPS understands that this type of coking coal is mainly used in the manufacture of iron and steel.[29] Given that the coking coal being examined used mainly in the production of iron and steel it is clear that only enterprises engaged in the manufacture of these products would benefit from the provision of the input by the GOC at less than adequate remuneration.

As such the subsidy is determined to be specific and countervailable.

ACBPS is aware that metallurgical coal comes in a range of qualities. This aspect is discussed in the determination of adequate remuneration at Appendix 3.

The amount of subsidy in respect of the goods

Cooperating exporters

ACBPS found that one of the five cooperating exporters received a financial contribution that conferred a benefit under this program during the investigation period through the purchase of coking coal at less than adequate remuneration from SIEs (as public bodies), under s.269TACC(4)(d)in accordance with s.269TACC(3)of the Act.

Purchases of coking coal manufactured by SIEs were identified for the exporter with reference to the 'Coking Coal Purchases' spreadsheet supplied by the exporter, which listed the purchases of coking coal during the investigation period. This spreadsheet identified whether each listed purchase was of coking coal manufactured by an SIE or not.

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[29] http://www.tetratech.com/pdfs/66/Coal_Classification_CMP2012_Ting_Lu.pdf. Reference supplied by the GOC in pre-initiation consultations.

Using this data, each purchase of coking coal from an SIE was assessed for adequate remuneration.

In accordance with s.269TACC(5), the adequacy of remuneration was determined by reference to a 'benchmark' for adequate remuneration, established having regard to the prevailing market conditions in China (discussed in detail in Appendix 3).

In accordance with s.269TACC(6)(d), the amount of subsidy attributable to the benefit has been determined as the difference between adequate remuneration (as established) and the actual purchase price paid for coking coal incurred by the relevant exporter in purchasing those goods from SIEs.

The export prices used to determine the benchmark price are at FOB terms. The purchase price paid by the exporter concerned were on delivered terms. Customs and Border considered the most reasonable method for ensuring the prices were on comparable terms, noting the following difficulties:

- the exporter purchases coking coal from various mines located in different regions unknown to ACBPS. As such there may be large variances in the freight costs to its factory; and
- the distances between the coal mines to the exporter and between the coal mines to the port are unknown and will vary.

Based on these difficulties ACBPS considers it is reasonable to compare the delivered purchase prices as reported by the exporter to the FOB export prices, given that both incorporate some amount of freight cost.

ACBPS understands that to produce one tonne of galvanised steel or aluminium zinc coated steel, it requires approximately 0.8 tonnes of coking coal[30]. In accordance with s.269TACC(10), the amount of subsidy received in respect of galvanised steel and aluminium zinc coated steel has been apportioned to each unit of galvanised steel and aluminium zinc coated steel using the total benefit calculated per tonne of coking coal apportioned according to the coking coal required to produce one tonne of galvanised steel and aluminium zinc coated steel.

ACBPS determined that no other cooperating exporters purchased any coking coal from SIEs. As such ACBPS calculated a zero amount of a subsidy under this program for those exporters.

<u>Non-cooperating exporters</u>

Wuhan cooperated with the dumping investigations and ACBPS is satisfied that it is an integrated manufacturer of galvanised steel and aluminium zinc coated steel. Based on the information supplied by Wuhan for the dumping investigation, it did not purchase any coking coal from SIEs. As such ACBPS calculated a zero amount of subsidy under this program for Wuhan.

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[30] Information supplied by BlueScope, but supported in an article provided by the GOC during pre-initiation consultations - http://www.tetratech.com/pdfs/66/Coal_Classification_CMP2012_Ting_Lu.pdf

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves to identify whether a financial contribution has been received under this program.

However, considering the facts that:

- all galvanised steel and aluminium zinc coated steel exported from China is made using coking coal as one of the major raw materials;
- a significant proportion of Chinese enterprises that produce coking coal are likely to be SIEs[31]; and
- selected fully integrated cooperating exporters purchased a significant amount of coking coal from SIEs during the investigation period;

it is considered likely that some non-cooperating exporters are fully integrated and purchased coking coal from SIEs and therefore received a financial contribution under this program.

In the absence of information that demonstrates the volume of coking coal purchased from SIEs by non-cooperating exporters, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

In accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters would have had benefits conferred to them under this program by this financial contribution, and has calculated the amount of subsidy attributable to that benefit by reference to the individual subsidy rate of the one exporter assessed as being in receipt of the subsidy (in the absence of other reliable information).

9.5.1 Submissions to SEF193 and ACBPS' assessment

One submission was received from BlueScope regarding the methodology adopted by ACBPS to determine an appropriate benchmark for coking coal.

In SEF 193 ACBPS preliminarily found that a benchmark for coking coal costs in China can be established using the Chinese export price for coking coal (exclusive of export tax) based on data provided by the GOC.

The GOC did not make a submission in relation to the coking coal findings.

[31] In its response to the SGQ the GOC advised that it does not have official statistics for coking coal and therefore did not supply details of the top 15 entities producing coking coal. In the absence of this information ACBPS has relied on evidence supplied in the application that suggests more than 50% of coking coal in China is supplied by SIEs.

BlueScope stated that it does not have access to the Chinese export prices for coking coal. BlueScope further stated that it is unable to assess whether the prices selected are reasonable for the purpose of assessing weather coking coal has been sold at less than adequate remuneration in China.

BlueScope stated that it preferred a transparent benchmark (e.g. SBB published prices for coking coal) be used for regular references and for review and duty assessment purposes in future.

ACBPS considered a range of options to determine a benchmark (appendix 3 of REP 193 refers). In the present case ACBPS considers the most appropriate basis for establishing the benchmark price is using the Chinese export prices of coking coal. While ACBPS acknowledges the difficulties this may present to interested parties, whether a price is public or not should not be the over-riding factor in the determination of a benchmark. The key factor is whether the price is reflective of adequate remuneration in the relevant domestic market.

9.6 Program 3: Coke provided by government at less than adequate remuneration

Background

BlueScope has alleged that Chinese exporters of galvanised steel and aluminium zinc coated steel have benefited from the provision of raw material in the form of coke by the GOC at less than adequate remuneration. In particular it was claimed that coke, one of the main raw materials used in the manufacture of galvanised steel and aluminium zinc coated steel, was being produced and supplied by SIEs in China at less than adequate remuneration.

Coke is an intermediate raw material used in the manufacture of hot rolled coil. Coking coal is put through a coking oven to produce coke, hence coking coal is the main raw material used in the production of coke.

During this investigation it has been established that some Chinese producers and exporters of galvanised steel and aluminium zinc coated steel were ‘integrated producers’ while others were ‘non-integrated’. The integrated producers manufacture HRC using coking coal and/or coke as one of the raw materials, while the non-integrated producers purchase HRC to produce those goods.

The definition of a subsidy under s.269T(a)(ii) includes reference to ‘a financial contribution by a government or any public body’.

The application alleges that Chinese SIEs that produce coke are public bodies, and that a financial contribution in the form of provision of raw material inputs (coke) at less than adequate remuneration by these SIEs to manufacturers of galvanised steel and aluminium zinc coated steel constitutes a countervailable subsidy.

ACBPS’s assessment of whether SIEs producing coke constitute a public body in the meaning of s.269T(a)(ii) is discussed in Appendix 1 of this report.

This assessment concludes that these Chinese SIEs that produce coke are 'public bodies' for the purposes of s.269T, and the remainder of this section continues on the basis of this finding.[32]

Under this program, a benefit to exported galvanised steel and aluminium zinc coated steel is conferred by coke being provided by the GOC (through SIEs) at an amount reflecting less than adequate remuneration, having regard to prevailing market conditions in China.

ACBPS's assessment of what constitutes 'adequate remuneration' for coke in China is contained in Appendix 4 of this report.

ACBPS requested information from all Chinese exporters in relation to their purchases of coke during the investigation period. For each supplier of coke, the Chinese galvanised steel and aluminium zinc coat steel exporters were required to identify whether the supplier was a trader or manufacturer of the goods. Where the supplier was not the manufacturer of the goods, each exporter was asked to identify the manufacturer.

Legal Basis

ACBPS has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOC document has been identified that provides for its establishment).

WTO Notification

ACBPS is not aware of any WTO notification in respect of this program.

Eligibility Criteria

There are no articulated eligibility criteria for enterprises receiving at less than adequate remuneration.

Is there a subsidy?

Based on the information above, ACBPS considers that this program involves a financial contribution that involves the provision of the goods (coke) by SIEs, being public bodies, at less than adequate remuneration.

As Chinese fully integrated exporters use coke in their production of galvanised steel and aluminium zinc coated steel, it is considered this financial contribution is made in respect of the production, manufacture or export of the goods.

Where the financial contribution involves a direct transaction between the public bodies and the fully integrated exporters of galvanised steel and/or aluminium zinc

[32] If it were to be determined that these SIEs are not 'public bodies', this program would not meet the definition of a 'subsidy' in s.269T.

coated steel, ACBPS considers that this financial contribution confers a direct benefit to the extent that the goods were provided at less than adequate remuneration, as determined by ACBPS.

Where the financial contribution involves the provision of coke by public bodies to private intermediaries that then trade those inputs to the exporters of galvanised steel and aluminium zinc coated steel, ACBPS considers, in accordance with s.269T(2AC)(a), that an indirect benefit is conferred in relation to the exported goods to the extent that the benefits conferred to the private intermediaries are passed-through to the exporters of galvanised steel and/or aluminium zinc coated steel by way of coke being provided at less than adequate remuneration.

These benefit amounts are equal to the amount of the difference between the purchase price and the adequate remuneration.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received a financial contribution of coke under the program at less than adequate remuneration, it would therefore confer a benefit in relation to galvanised steel and/or aluminium zinc coated steel, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

As provided for in s.269TAAC(4)(a), the Minister may determine that a subsidy is specific, having regard to the fact that the subsidy program benefits a limited number of particular enterprises.

ACBPS understands that while coke has a number of uses, it is predominantly used in the production of iron and steel, so it is clear that the provision of the input by the GOC at less than adequate remuneration would mainly benefit enterprises engaged in the manufacture of iron and steel.

As such the subsidy is determined to be specific.

The amount of subsidy in respect of the goods

<u>Cooperating exporters</u>

ACBPS found that none of the five cooperating exporters purchased coke from SIEs during the investigation period, and therefore none of the cooperating exporters received a financial contribution that conferred a benefit under this program during the investigation period

As such ACBPS calculated a zero amount of a subsidy under this program for all cooperating exporters.

<u>Non-cooperating exporters</u>

Wuhan cooperated with the dumping investigations and provided a list of its coke purchases as part of its response to the dumping investigations. Purchases of coke manufactured by SIEs were identified for Wuhan with reference to the 'Coke Purchases' spreadsheet supplied, which listed Wuhan's purchases of coke during the investigation period. This spreadsheet identified whether each listed purchase was of coke manufactured by an SIE or not.

The data reported in the coke purchase spreadsheet was examined without verification. Using this data, each purchase of coke from an SIE was assessed for adequate remuneration.

In accordance with s.269TACC(5), the adequacy of remuneration was determined by reference to a 'benchmark' for adequate remuneration, established having regard to the prevailing market conditions in China (discussed in detail in Appendix 4).

In accordance with s.269TACC(6)(d), the amount of subsidy attributable to the benefit has been determined as the difference between adequate remuneration (as established) and the actual purchase price paid for coke incurred by Wuhan in purchasing those goods from SIEs.

Wuhan reported that its purchase prices were all EXW. It did not provide any details of freight costs. As discussed above, ACBPS considers that the benefit can be calculated by comparing the delivered price paid by the exporter with the FOB export prices. In order to adjust Wuhan's purchase prices to delivered prices ACBPS has used freight costs obtained from another cooperating exporter.

ACBPS understands that to produce one tonne of galvanised steel or aluminium zinc coated steel, it requires 0.8 tonnes of coke. In accordance with s.269TACC(10), the amount of subsidy received by Wuhan in respect of galvanised steel and aluminium zinc coated steel has been apportioned to each unit of galvanised steel and aluminium zinc coated steel using the total benefit calculated per tonne of coke apportioned according to the coke required to produce one tonne of galvanised steel and aluminium zinc coated steel.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves to identify whether a financial contribution has been received under this program.

However, considering the facts that:

- all galvanised steel and aluminium zinc coated steel exported from China is made using coke as one of the major raw materials; and
- a significant proportion of Chinese enterprises that produce coke are known to be SIEs[33];

it is considered likely that some non-cooperators are fully integrated and purchased coke from SIEs and therefore received a financial contribution under this program.

[33] SGQ, Attachment 74 – all but one of the top 15 suppliers of coke are SIEs

In the absence of information that demonstrates the volume of coke purchased from SIEs by non-cooperating exporters (other than Wuhan), ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

In accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters would have had benefits conferred to them under this program by this financial contribution, and has calculated the amount of subsidy attributable to that benefit by reference to Wuhan's subsidy rate (in the absence of other reliable information).

9.6.1 Submissions to SEF193 and ACBPS' assessment

One submission was received from BlueScope regarding the methodology adopted by ACBPS to determine an appropriate benchmark for coke. BlueScope stated that it considers that an appropriate benchmark price for coke at less than adequate remuneration is one that is publically available from a respected industry source (e.g. SBB). In SEF 193 the ACBPS preliminarily found that a benchmark for coking coal costs in China can be established using the Chinese export price for coking coal (exclusive of export tax) based on data provided by the GOC.

The GOC did not make a submission in relation to the coking coal findings.

ACBPS considered a range of options to determine a benchmark (appendix 4 of REP 193 refers). In the present case ACBPS considers the most appropriate basis for establishing the benchmark price is using the Chinese export prices of coke. While ACBPS acknowledges the difficulties this may present to interested parties, whether a price is public or not should not be the over-riding factor in the determination of a benchmark. The key factor is whether the price is reflective of adequate remuneration in the relevant domestic market.

One submission was received from the China Iron and Steel Association (CISA) regarding the methodology used by ACBPS to determine the subsidy margins for the non-cooperating Chinese exporters.

CISA stated that it strongly disagrees with ACBPS' methodology of adding the three subsidy margins for programs 1, 2 and 3 together for selected non-cooperating exporters. All three programs refer to the supply of raw materials by the GOC at less than adequate remuneration for the fully integrated companies. CISA submitted that the most equitable way to calculate the overall subsidy margins applicable to non-cooperating exporters for programs 1, 2 and 3 is to take the highest margin among them, instead of each of them.

ACBPS is not aware of to what extent the non-cooperating exporters are integrated. ACBPS is aware that one fully integrated exporter that participated in dumping investigations purchased coke to produce the goods. One other fully integrated cooperating exporter purchased coal and manufactured its own coke. The non-integrated exporters purchase HRC to produce the goods. In the absence of any information from the non-cooperating exporters and the GOC, ACBPS used the most appropriate method to determine the subsidy margin for those exporters as discussed in the relevant sections of this report.

9.7 Exemption, Reduction and Refund of Taxation – Programs 4, 5, 6, 7, 8, 9, 10, 11 and 34

9.7.1 Programs 4, 6, and 7 - Income tax reduction for foreign-invested enterprises (FIEs) based on location

Background

The application alleges that galvanised steel and aluminium zinc coated steel producers/exporters that are FIEs are likely to have benefited from exemptions to income tax based upon the location of those exporters in a particular province or locality. The evidence and relevant documents supplied by the GOC in HSS subsidy investigations (INV177) has also been used to assess if benefits have been provided to galvanised steel and aluminium zinc coated steel producers.

These programs apply to certain industries with operations in certain designated zones or certain specific geographic locations. They reduce the normal FIE tax payable rate of 25% to various levels, depending on the particular location.

Legal Basis

The income tax reductions under programs 4, 6 and 7 are provided for in the FIE Income Tax Law, Article 7.

The programs are national programs and are administered by the State Administration of Taxation (SAT) and its local Branch Offices or Bureaus, in accordance with the FIE Tax Regulations. It is administered in accordance with the *Implementing Rules of the Foreign Investment Enterprise and Foreign Enterprise Income Tax Law* (the FIE Tax Regulations).

The FIE Income Tax Law and the FIE Tax Regulations were repealed with the introduction of the *Enterprise Income Tax Law 2008* (the EITL). However, transitional arrangements for these programs until end 2012 are in place under State Council Notice No 39 of 2007.

WTO Notification

The GOC notified the following programs in WTO document G/SCM/N/123/CHN dated 13 April 2006.

- Preferential tax policies enterprises with foreign investment established in special economic zones (excluding Shanghai Pudong area) (Notification No. X).
- Preferential tax policies enterprises with foreign investment established in the coastal economic open areas and in the economic and technological

development zones (Notification No. XI).
- Preferential tax policies enterprises with foreign investment established in Pudong area of Shanghai (Notification No. XII).

Eligibility criteria

Program 4: Preferential tax policies for enterprises with foreign investment established in the coastal economic open areas and economic and technological development zones.

- Only FIEs located in economic and technological development zones (ETDZs) or the Coastal Economic Open Areas are eligible for the subsidy.
- DIEs and/or companies located outside ETDZs or the Coastal Economic Open Areas are not eligible for the subsidy.

Program 6: Preferential tax policies for enterprises with foreign investment established in Special Economic Zones (excluding Shanghai Pudong area)

- Only FIEs located in a special economic zone (SEZ) designated geographical region are eligible for the subsidy.
- DIEs and/or enterprises located outside an SEZ are not eligible for the subsidy.

Program 7: Preferential tax policies for enterprises with foreign investment established in Pudong area of Shanghai.

- Only FIEs located in a special economic zone (SEZ) designated geographical region are eligible for the subsidy.
- DIEs and enterprises outside the Pudong area are not eligible for the program.

Are there subsidies?

Based on the information above, ACBPS considers that the laws governing these programs mandate a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue (income tax) due to the GOC by eligible enterprises in China.

Due to the nature of these programs (general exemption on income tax regardless of what activities generate this income), it is considered that a financial contribution under these programs would be made in connection to the production, manufacture or export of galvanised steel and aluminium zinc coated steel of the recipient enterprise.

Where received, this financial contribution is considered to confer a benefit because of the tax savings realised.

Where exporters of galvanised steel and/or aluminium zinc coated steel products during the investigation period received tax savings under these programs, it would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under s.269T.

Are the subsidies countervailable subsidies (specific or prohibited)?

As provided for in s.269TAAC(2)(b), a subsidy is specific if access to the subsidy is limited to particular enterprises carrying on business in a designated geographical region that is in the jurisdiction of the subsidising authority.

A subsidy is also considered specific if access to the subsidy is explicitly limited to particular enterprises (s.269TAAC(2)(a)).

These programs limit eligibility to FIEs based in certain geographic locations under the jurisdiction of the granting authority (SAT).

As the criteria or conditions providing access to each of the subsidies favours particular enterprises, being FIEs in particular locations, over all other enterprises, the specificity of these subsidies is not excepted by reference to s.269TAAC(3).

For these reasons ACBPS finds that the above subsidies are specific.

The amount of subsidy in respect of the goods

Cooperating exporters

ACBPS has determined that none of the cooperating exporters have received financial contributions in respect of the goods under these programs during the investigation period.

ACBPS therefore considers a zero subsidy rate is applicable to cooperating exporters under these programs.

Non-cooperating exporters

In relation to Wuhan, ACBPS has determined based on all relevant information that it is not an FIE and would therefore not be eligible for this program.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under these programs.

These programs were investigated in INV177. The GOC was asked to provide any amendments to laws, regulations or policy that evidence that these programs were not relevant to current investigations. The GOC did not provide any further information other than referring to any subsidies that were applicable to the five cooperating exporters.

Furthermore, it is noted that these programs are limited to enterprises in specific regions in China. ACBPS requested the GOC provide information as to the location of all galvanised steel and aluminium zinc coated exporters in China, but this was not provided. In its response to SSGQ A-1, the GOC stated that *"the GOC is unable to provide the requested details for all Chinese exporters of galvanised steel and* *aluminium zinc coated steel….The GOC notes that there are a great many manufacturers, traders and exporters of coated steel products in China…"*

ACBPS's import database does list 'supplier' addresses, but it is not certain for each 'supplier' whether they are in fact the exporter of the goods, and whether the supplier operates in more locations than the one listed (e.g. the listed location could represent a central or head office of an enterprise that operates galvanised steel and aluminium zinc coated steel manufacturing facilities in multiple locations in China).

In the absence of the above relevant information, ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for these programs, have accessed these programs, and therefore received financial contributions under these programs.

It is considered that this financial contribution has been made in respect of all products of these exporters, including galvanised steel and aluminium zinc coated steel products.

In calculating the amount of subsidy attributable to non-cooperators under these programs, it is noted that as:

- these programs would operate to reduce enterprises' income tax liability; but
- the maximum benefit under Program 5 (0% tax liability) has already been applied to non-cooperating exporters;

the maximum benefit amount available under these programs has already been countervailed in relation to Program 5.

ACBPS has therefore calculated a zero amount of subsidy under these tax programs for non-cooperating exporters.

9.7.2 Program 5: Preferential Tax Policies for Foreign Invested Enterprises (FIEs) – Reduced Tax Rate for Productive FIEs scheduled to operate for a period of not less than 10 years

Background

BlueScope has alleged that Chinese exporters of galvanised steel and aluminium zinc coated steel have benefited from a preferential tax policy for FIEs provided for under the Chinese *Foreign Invested Enterprise and Foreign Enterprise Income Tax Law 1991* (the FIE Income Tax Law) which came into effect on 1 July 1991.

During the investigation period the prevailing income tax rate for FIEs in China was 25%.

Under this program, from the year an FIE begins to make a profit, they may receive a full exemption from income tax in the first and second years and a 50% reduction in income tax in the third, fourth, and fifth years.

This program begins in the first profitable year of the FIE and concludes at the end of the fifth subsequent year. There is no deferral of the exemption or reduction for subsequent years where the enterprise does not make a profit.

Legal Basis

The income tax reduction and exemption for FIEs under this program is provided for in Article 8 of the FIE Income Tax Law.

The program is a national program, administered by the State Administration of Taxation (SAT) and its local Branch Offices or Bureaus. It is administered in accordance with the *Implementing Rules of the Foreign Investment Enterprise and Foreign Enterprise Income Tax Law* (the FIE Tax Regulations).

The FIE Income Tax Law and the FIE Tax Regulations were repealed with the introduction of the *Enterprise Income Tax Law 2008* (the EITL).

However, transitional arrangements extend the operation of this program and other preferential tax programs in accordance with the *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax* (State Council Notice No 39 of 2007). This notice provides that:

- as of 1 January 2008, enterprises that previously enjoyed a 2-year exemption and 3-year half payment of the enterprise income tax and other preferential treatments (including periodic tax deductions and exemptions) may continue to enjoy any preferential treatments previously enjoyed until the expiration of the transitional time period; and
- for enterprises that previously had not enjoyed preferential treatment, the preferential time period shall be calculated from 2008.

WTO Notification

The GOC notified this program in WTO document G/SCM/N/123/CHN dated 13 April 2006 (Notification No. I).

Eligibility Criteria

Under Article 8 of the FIE Income Tax Law, to be eligible for this program, the enterprise must be:

- an FIE;
- ‘production-orientated’;
- an enterprise which has an anticipated term of operation of at least 10 years; and
- an enterprise that has had a financial year in which it made a profit.

To be categorised as an FIE, the enterprise must be a Chinese–Foreign equity joint venture, a Chinese–Foreign cooperative joint venture or a wholly foreign owned enterprise established in China.

Is there a subsidy?

Based on the information above, ACBPS considers that the program is a financial contribution by the GOC, that involves the foregoing, or non-collection, of revenue due to the GOC by eligible production-oriented FIEs in China.

Due to the nature of this program (general exemption on income tax regardless of what activities generate this income (profit)), it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including galvanised steel and aluminium zinc coated steel).

Where received, this financial contribution is considered to confer a benefit because of the tax savings realised.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received tax savings under the program it would therefore confer a benefit in relation to those goods, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

As provided for in s.269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises.

Previous estimates by the GOC indicate that FIEs constitute a minor proportion of all enterprises in China. This means that the preferential tax treatment explicitly limited to FIEs is not available to majority of enterprises in China.

Only FIEs are eligible for the subsidy. Other companies in China (being domestic invested enterprises or DIEs) are not eligible for the subsidy. Further, only production-oriented FIEs are eligible for the subsidy (i.e. FIEs that are not production-oriented are not eligible for the program).

As the criteria or conditions providing access to the subsidy favour particular enterprises, being those eligible production-orientated FIEs, over all other enterprises in China, the specificity of the subsidy is not excepted by reference to s.269TAAC(3).

For these reasons, ACBPS finds that the subsidy is specific.

The amount of subsidy in respect of the goods

Cooperating exporters

One cooperating exporter identified that it was eligible and benefitted from the 50% reduction in income tax rate under this program during the investigation period. It paid income tax at a rate of 12% (other than full tax rate of 25%) in 2011. The amount of the benefit is therefore 50% of the income tax payable at the full rate of 25%.

Two other cooperating exporters identified that they were eligible for the reduction in income tax under this program during the investigation period. However, as both the enterprises were not profitable during the period, they were not liable for income tax due to carry forward losses, and hence did not receive a benefit under this program during the investigation period.

The GOC in its response to GQ B-1, confirmed that only one of the cooperating exporters received benefits under this program during the investigation period.

Selected non-cooperators

In relation to Wuhan, ACBPS has determined based on all relevant information that it is not an FIE and would therefore not be eligible for this program.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under this program.

This program was investigated in INV177. The GOC was asked to provide any amendments to laws, regulations or policy that evidence that these programs were not relevant to current investigations. The GOC did not provide any further information other than referring any subsidies that were applicable to the cooperating five exporters.

In the absence of this information, ACBPS considers that, given:

- the fact that the program operates on a national level;
- the understanding that only a minor proportion of enterprises in China are FIEs and certain cooperating exporters of galvanised steel and aluminium zinc coated steel products are FIEs;
- ACBPS found that three cooperating Chinese galvanised steel and aluminium zinc coated steel exporters were eligible for this program; and
- ACBPS found that one cooperating Chinese galvanised steel exporter benefited from this program in the investigation period,

it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

It is considered that this financial contribution has been made in respect of all products of these exporters, including galvanised steel and aluminium zinc coated steel.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of tax savings.

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS is mindful that, under this program, the maximum benefit that could have been conferred during the investigation period is reduction in the tax liability of 50%. This is because the phasing out of the program and the transitional arrangements mean that the 2012 calendar year will be the final year of eligibility for any enterprise. ACBPS notes that enterprises that are eligible for this program will not receive any benefit until lodgement of the income tax return for the 2012 calendar year, which is after the investigation period. The benefit is therefore considered to continue.

To ascertain the quantum of this benefit, ACBPS has calculated the maximum amount of benefit that could have been attributed to each of the five cooperating exporters under this program during the investigation period (50% tax liability on profits) and attributed this amount to galvanised steel and/or aluminium zinc coated steel per unit by dividing this benefit by the total sales volume of each enterprise (in accordance with s.269TACC(10)).

A subsidy margin was then calculated (per unit benefit amount for each cooperating exporter as a percentage of the weighted average export price for that exporter).

ACBPS has then attributed the highest subsidy margin for this program of the cooperating exporters to all non-cooperating exporters (except Wuhan).

9.7.3 Program 8: Preferential Tax Policies in the Western Regions

Background

The application alleges that galvanised steel and aluminium zinc coated steel exporters are likely to have benefited from exemptions to income tax based upon the location of enterprises in the Western Regions of China.

Under this program, enterprises established in the Western Regions engaged in industries encouraged by the State are eligible for a reduced tax rate of 15% (as opposed to the standard 25% taxation rate).

In certain circumstances, the program also operates to extend the duration of the preferential tax period under Program 5 and exempts enterprises from VAT and tariff on imported goods (Program 11). As ACBPS has examined Programs 5 and 11 as separate programs in these investigations that operate at the national level, the assessment of Program 8 focuses specifically on the reduced income tax rate part of the program.

Legal Basis

The legal basis to establish this subsidy is pursuant to the following:

- the *Circular of the State Council Concerning Several Policies on Carrying out the Development of China's Vast Western Regions*, State Council Circular Guo Fa No. 33 of 2000;
- the *Implementing Some Policies and Measures for the Development of Western Regions*, General Office of State Council Circular Guo Ban Fa No. 73 of 2001;
- the *Circular of the Ministry of Finance, the State Administration of Taxation*, *the General Administration of Customs on Issues of Incentive Policies on Taxation for the Strategy of the Development in the Western Areas* (Cai Shui (2001) No. 202);
- the *SAT Circular Guo Shui Fa No. 172 of 1999*; and
- the *Circular on Deepening the Implementation of Tax Policy concerning Development of Western Regions*(CAISHUI[2011]No.58).

The program is administered by the SAT and its local Branch Offices or Bureaus.

WTO Notification

The GOC notified this program in WTO document G/SCM/N/123/CHN (Notification No. XIV).

Eligibility criteria

The program is available to enterprises established in the Western regions which are engaged in industries encouraged by the State as defined in the:

- *Catalogue of the Industries, Products and Technologies Particularly Encouraged by the State*
- *Guiding Catalogue for Industry Restructuring*
- *Circular on the Preferential Tax Policy of the Western Regions*
- *Catalogue for the Guidance of the Foreign Investment Industries*
- *Catalogue for the Guidance of the Advantageous Industries in Central and Western Regions for Foreign Investment*

Is there a subsidy?

ACBPS considers that the laws governing this program mandate a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue (income tax) due to the GOC by eligible enterprises in the Western Regions in China.

Due to the nature of this program (general exemption on income tax regardless of what activities generate this income (profit)), it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including galvanised steel and aluminium zinc coated steel).

Where received, this financial contribution is considered to confer a benefit because of the tax savings realised.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received tax savings under the program it would therefore confer a benefit in relation to galvanised steel and aluminium zinc coated steel and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

As provided for in s.269TAAC(2)(b), a subsidy is specific if access to the subsidy is limited to particular enterprises carrying on business in a designated geographical region that is in the jurisdiction of the subsidising authority. A subsidy is also considered specific if access to the subsidy is explicitly limited to particular enterprises (s.269TAAC(2)(a)).

For enterprises located in the Western Regions, only those industries which are ‘encouraged’ are eligible for the subsidy. Other companies in the designated geographical region (being those enterprises which are not ‘encouraged’) are not eligible for the subsidy.

Furthermore, this program is limited in eligibility to enterprises based in the Western Region, under the jurisdiction of the granting authority (SAT).

As the criteria or conditions providing access to the subsidy favours particular enterprises, being those ‘encouraged’ enterprises in the Western Regions, over all other enterprises, the specificity of the subsidy is not excepted by reference to s.269TAAC(3).

For these reasons ACBPS finds that the subsidy is specific.

The amount of subsidy in respect of the goods

Cooperating exporters

ACBPS has determined that none of the cooperating exporters have received financial contributions in respect of the goods under this program during the investigation period.

ACBPS therefore considers a zero subsidy rate is applicable to cooperating exporters under this program.

Non-cooperating exporters

For non-cooperating exporters, including Wuhan, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under this program.

This program was investigated in INV177. The GOC was asked to provide any amendments to laws, regulations or policy that evidence that these programs were not relevant to current investigations. The GOC did not provide any further information other than referring to any subsidies that were applicable to the five cooperating exporters

In the absence of the above relevant information, ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

It is considered that this financial contribution has been made in respect of all products of these exporters, including galvanised steel and aluminium zinc coated steel.

In calculating the amount of subsidy for attributable to selected non-cooperators under this program, it is noted that as:

- this program would operate to reduce enterprises' income tax liability; but
- the maximum benefit under Program 5 (50% tax liability) has already been applied to non-cooperating exporters;

the maximum benefit amount available under this program has already been countervailed in relation to Program 5.

ACBPS has therefore calculated a zero amount of a subsidy under this program for non-cooperating exporters.

9.7.4 Program 9: Land Use Tax Deduction

Background

The application alleges that galvanised steel and aluminium zinc coated steel exporters are likely to have benefited from land use tax deduction. This program provides for the reduction or exemption of land use taxes for high and new technology enterprises.

Legal Basis

Approval of Tax (Expense) Deduction (ZhengDiCaShui [2010] No.11581).

This program is administered by Huzhou City Local Taxation Bureau and Wuxing Sub-Bureau.

WTO Notification

ACBPS is not aware of any WTO notification of this program.

Eligibility criteria

The program is available to new high and new technology enterprises within three years of their establishment.

Is there a subsidy?

ACBPS considers that the reduction in land use tax provided under this program is a financial contribution by the GOC which involves the forgoing of land use tax revenue otherwise due to the GOC.

Due to the nature of this program (exemption of land use tax), it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including galvanised steel and aluminium zinc coated steel).

Where received, financial contribution is considered to confer a benefit to recipient manufacturers of galvanised steel and aluminium zinc coated steel due to reduced tax liability owed to the GOC.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received tax savings under this program, this would therefore confer a benefit in relation to the goods, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

As provided for in s.269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises.

In accordance with the above-listed eligibility criteria, this program is limited to high and new technology enterprises that are less than three years old.

As the criteria or conditions providing access to the subsidy favours particular enterprises over all other enterprises in China, the specificity of the subsidy is not excepted by reference to s.269TAAC(3).

ACBPS therefore considers this subsidy to be specific.

The amount of subsidy in respect of the goods

Cooperating exporters

ACBPS has determined that none of the cooperating exporters have received financial contributions in respect of the goods under this program during the investigation period.

ACBPS therefore considers a zero subsidy rate is applicable to cooperating exporters under this program.

Non-cooperating exporters

In relation to Wuhan, based on all relevant information provided, ACBPS considers that Wuhan would not be eligible for this subsidy. ACBPS has therefore calculated a zero rate of subsidy attributable to Wuhan in relation to this program.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under this program.

This program was investigated in INV177. The GOC was asked to provide any amendments to laws, regulations or policy that evidence that these programs were not relevant to current investigations. The GOC did not provide any further information other than referring to any subsidies that were applicable to the five cooperating exporters

In the absence of the above relevant information, ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

It is considered that this financial contribution has been made in respect of all products of these exporters, including galvanised steel and aluminium zinc coated steel.

In the absence of usage information, ACBPS considers that:

- s.269TACC(2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of a reduction in a tax.

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that because the maximum financial contribution grantable under a program is not stipulated in its legal instrument, the amount of the financial contribution shall be considered to be the amount found to be received by cooperating exporter in a previous investigation, namely INV177.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

9.7.5 Program 10: Preferential Tax Policies for High and New Technology Enterprises

Background

The application alleges that galvanised steel and aluminium zinc coated steel exporters are likely to have benefited from preferential tax policies. This program reduces the income tax paid by high and new technology enterprises to 15% (from the standard enterprise income tax rate of 25%).

Legal Basis

This program is provided for under Article 28 of the EITL.

It is considered likely that this program is a national program, administered by the SAT.

WTO Notification

ACBPS is not aware of any WTO notification of this program.

Eligibility criteria

From the EITL, it is understood that all high and new technology enterprises are eligible for this program.

Is there a subsidy?

ACBPS considers that the law governing this program mandates a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue (income tax) due to the GOC by eligible enterprises in China.

Due to the nature of this program (general exemption on income tax regardless of what activities generate this income (profit)), it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including galvanised steel and aluminium zinc coated steel).

Where received, this financial contribution is considered to confer a benefit because of the tax savings realised.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received tax savings under the program it would therefore confer a benefit in relation to those goods, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

A subsidy is considered specific if access to the subsidy is explicitly limited to particular enterprises (s.269TAAC(2)(a)).

The eligibility criteria of this subsidy limits it to enterprises that are considered higher and/or new technology enterprises. As the criteria or conditions providing access to the subsidy favour these particular enterprises over all other enterprises in China, the specificity of the subsidy is not excepted by reference to s.269TAAC(3).

The amount of subsidy in respect of the goods

Cooperating exporters

ACBPS has determined that none of the cooperating exporters have received financial contributions in respect of the goods under these programs during the investigation period.

ACBPS therefore considers a zero subsidy rate is applicable to cooperating exporters under these programs.

Non-cooperating exporters

For non-cooperating exporters, including Wuhan, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under this program.

This program was investigated in INV177. The GOC was asked to provide any amendments to laws, regulations or policy that evidence that this program was not relevant to current investigations. The GOC did not provide any further information other than referring to any subsidies that were applicable to the five cooperating exporters.

In the absence of the above relevant information, ACBPS considers it is likely that certain non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In calculating the amount of subsidy attributable to selected non-cooperators under this program, it is noted that this program would operate to reduce enterprises' income tax liability, but the maximum benefit the maximum benefit amount available under this program has already been countervailed in relation to Program 5.

ACBPS has therefore calculated a zero amount of a subsidy under this program for non-cooperating exporters.

9.7.6 Program 11: Tariff and VAT Exemptions on Imported Materials and Equipment

Background

BlueScope has alleged that Chinese producers of galvanised steel and aluminium zinc coated steel are likely to have benefited from this program, under which the GOC provides an exemption of VAT and tariffs on imported equipment used as 'productive' assets.

In response to GQ B-1, the GOC confirmed that the five cooperating exporters received benefits under this program from 1 July 2002 to 30 June 2012. The GOC did not provide any further details and stated that "*The GOC understands that each of these companies reported detailed information about the value of the benefits obtained in their response to the respective exporter questionnaire issued by Australian Custom'.*

However, ACBPS found only four of the five cooperating exporters benefited under this program.

Legal Basis

The legal basis to establish this subsidy is pursuant to the following:

- *Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment* (Guo Fa [1997] No. 37);
- *Catalogue of Industries for Guiding Foreign Investment*;
- *Catalogue of Industry, Product and Technology Key Supported by the State at Present* (2004);
- *State Council's Import Goods Not Exempted from Taxation for Foreign Investment Projects Catalogue; and*.
- *Import Goods Not Exempted from Taxation for Domestic Investment Projects Catalogue*.

The program appears to operate on a national level. The National Development and Reform Commission (NDRC) or its provincial branches issue certificates under this program, while local customs authorities administer the VAT and tariff exemptions.

WTO Notification

The GOC notified this program in WTO document G/SCM/N/123/CHN dated 13 April 2006 (Notification No. LX).

Eligibility Criteria

Under Articles 1 and 2 of the *Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment* (Guo Fa [1997] No. 37) to be eligible for this program:

- the enterprise must be an FIE which falls in the 'encouraged' or 'restricted' categories in the *Catalogue of Industries for Guiding Foreign Investment* (2004) (until 30 November 2007) or the *Catalogue of Industries for Guiding Foreign Investment* (2007) (after 1 December 2007);

- the imported equipment which is sought to be exempt from tariff and/or VAT must be for the enterprise's own use and not fall in the State Council's *Import Goods Not Exempted from Taxation for Foreign Investment Projects Catalogue*; and
- the total value of the purchase must not exceed the investment 'cap';

or

- the enterprise must be a domestic invested enterprise (DIE) which falls in the *Catalogue of Industry, Product and Technology Key Supported by the State at Present* (2004) and the imported equipment must be for the enterprises own use and not fall in *the Import Goods Not Exempted from Taxation for Domestic Investment projects catalogue*; and
- the total value of the purchase must not exceed the investment 'cap'.

Is there a subsidy?

Based on the information above, ACBPS considers this program is a financial contribution by the GOC, that involves the foregoing, or non-collection, of revenue due to the GOC (tariff and VAT) by eligible enterprises in China.

It is considered that, depending on the nature of the imported equipment, a financial contribution made under this program could be made in relation to the production, manufacture or export of galvanised steel and/or aluminium zinc coated steel products.

Where received, this financial contribution is considered to confer a benefit because of the tariff and VAT savings realised.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received tax savings under the program for equipment related to their galvanised steel and aluminium zinc coated steel activities, it would therefore confer a benefit in relation to those goods, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

As provided for in s.269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises.

FIEs that fall in the category of 'encouraged' or restricted' enterprises of the FIE catalogues are eligible for the subsidy, or DIEs that fall under the DIE catalogue are eligible for the subsidy. As the criteria or conditions providing access to this program favour these particular enterprises, over all other enterprises in China, the specificity of the subsidy is not excepted by reference to s.269TAAC(3).

For these reasons ACBPS finds that the subsidy is specific.

The amount of subsidy in respect of the goods

Cooperating exporters

ACBPS has found that four of the five cooperating exporters have received financial contributions in respect of the goods under this program during the investigation period.

As the financial contribution under this program takes the form of reduced tax liability (rather than a direct transfer of funds) it is determined that the financial contribution has conferred a benefit under s.269TACC(3).

In accordance with s.269TACC(6)(d) the amount of subsidy is determined to be the amount of tax revenue forgone by the GOC.

In accordance with s.269TACC(10), the total amount of subsidy received by each of the cooperating exporter is apportioned over the life of the equipment purchased.

ACBPS considers a zero subsidy rate is applicable to the remaining cooperating exporter under this program.

Non-cooperating exporters

For non-cooperating exporters, including Wuhan, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under these programs.

This program was investigated in INV177. The GOC was asked to provide any amendments to laws, regulations or policy that evidence that this program was not relevant to current investigations. The GOC did not provide any further information other than referring to any subsidies that were applicable to the five cooperating exporters.

However, in the absence of this information, and having regard to:

- the fact that the program operates nationally; and
- ACBPS's understanding that galvanised steel and aluminium zinc coated steel exporters import various equipment;

ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In the absence of information to the contrary, and having regard to the type of equipment likely to be imported by galvanised steel and/or aluminium zinc coated steel manufacturers, it is considered this financial contribution was received in respect of equipment used in relation to non-cooperators' galvanised steel and/or aluminium zinc coated steel activities (however, it is also considered that financial contributions under this program may have also been received in respect of non-galvanised steel and/or aluminium zinc coated steel equipment).

Therefore, in the absence of relevant information, it is considered that this financial contribution has been made in respect of all products of these exporters, including galvanised steel and aluminium zinc coated steel products.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters have had benefits conferred to them by financial contributions under this program during the investigation period in the form of tax savings.

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), in the absence of other information, ACBPS considers that the subsidy amount calculated for cooperating exporters is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters, and has used this information as a basis for its calculations.

9.7.7 Program 34: VAT refund on domestic sales by local tax authority

Background

ACBPS became aware of a potential additional subsidy program through verification of responses to the exporter questionnaire. One cooperating exporter reported receiving payments from a local Department of Finance, which it described as 'VAT refund on domestic sales by local tax authority'.

In response to the SSGQ (SSGQ B-9 refers), the GOC stated that it was not able to confirm if there was such a program, if the named exporter received any benefit under this program or if any benefit impacted the production of the goods in the investigation period.

All information in relation to this program was provided by the relevant exporter. The exporter advised that this program allows the local Authority to refund VAT on domestic sales based on the timely targets achieved on the production of automotive steel sheets as prescribed in the feasibility report approved by the Government.

Legal Basis

This program is provided for under Dalian Development Zone Administration 'Da Kai Guan Fa [2002] no.47.

It is considered likely that this program is specific for Dalian zone. The program is administered by the Department of finance of Dalian Economic & Technology Development Zone.

WTO Notification

ACBPS is not aware of any WTO notification of this program.

Eligibility criteria

From the Dalian Development Zone administration committee document, it is understood that this award was specifically designed for achieving timely targets for the production and export of automotive steel sheets.

The following awards shall be granted:

(a) If achieved the designed production capacity within 3 years from is operation, the amount of award in the first 3 years, starting from the payment of the first VAT (every 12 months as a calculation year), equals to the actual VAT paid as maintained by the local authority.
(b) If the production of automotive steel sheets achieves the designed capacity within 5 years since its operation, the amount of award in the 4^{th} and 5^{th} year equals to the actual VAT paid as maintained by the local authority.
(c) If the exporter keeps stable production or exportation after achieved the designed production capacity within 5 years, the amount of award in the 6^{th},7^{th} and 8^{th} year equals to 50% of the actual VAT paid as maintained by the local authority.
(d) During the construction of the plant, if the non-deductible import tariff or import VAT, or self-maintained production and auxiliary facilities (general step-down substation, hydrogen and nitrogen generating station, and special railway) are in excess of the investment budget, the authority of development zone would fund accordingly. The amount equals to 80% of actual VAT paid in the production as maintained by the local authority in the 9^{th} and 10^{th} year.
(e) The above awards or investment funds shall start to account from the 1^{st} payment of VAT, and perform every calculation year.
(f) The above awards or investment shall only be used in the development of production and new products rather than profits distribution

Is there a subsidy?

ACBPS considers that the law governing this program mandate a financial contribution by the GOC, which involves the refund of government revenue (VAT on domestic sales) due to the GOC by eligible enterprises located in Dalian development zone.

Due to the nature of this program (refund of VAT of domestic sales over a period of time), it is considered that a financial contribution under this program would be made in connection to the production, manufacture or export of automotive steel sheets of the recipient enterprise (including galvanised steel).

Where received, this financial contribution is considered to confer a benefit because of the VAT refunded on domestic sales.

Where exporters of galvanised steel and aluminium zinc coated steel during the investigation period received VAT refunds under the program it would therefore confer a benefit in relation to the goods, and the financial contribution would meet the definition of a subsidy under s.269T.

Is the subsidy a countervailable subsidy (specific or prohibited)?

A subsidy is considered specific if access to the subsidy is explicitly limited to particular enterprises (s.269TAAC(2)(a)).

The eligibility criteria of this subsidy limits it to enterprises that are to be achieving designed production capacity of automotive steel sheets. As the criteria or conditions providing access to the subsidy favour these particular enterprises over all other enterprises in China, the specificity of the subsidy is not excepted by reference to s.269TAAC(3).

For these reasons ACBPS finds that the subsidy is specific and countervailable.

The amount of subsidy in respect of the goods

Cooperating exporters

As discussed above, ACBPS has found that one cooperating exporter received a financial contribution under this program during the investigation period, and therefore received a benefit under this program.

It is considered that this financial contribution has been made in respect of all products of this exporter, including galvanised steel.

The cooperating exporter advised that it qualified for the full refund of VAT due to the fact that it achieved the targets. The VAT was refunded for calculation years (July to June) from 2006-07 to 2010-11. The selected exporter advised that it had not yet received the VAT refunds for the calculation year 2011-12

As the financial contribution under this program takes the form of reduced tax liability (rather than a direct transfer of funds) it is determined that the financial contribution has conferred a benefit under s.269TACC(3).

In accordance with s.269TACC(6)(d) the amount of subsidy is determined to be the amount of tax revenue forgone by the GOC.

In accordance with s.269TACC(10), the total amount of subsidy received by the cooperating exporter has been apportioned to each unit of the goods using that exporter's total sales volume.

ACBPS considers a zero subsidy rate is applicable to all remaining cooperating exporters under this program.

Non-cooperating exporters

Based on relevant information provided by Wuhan, ACBPS considers that it would not be eligible for this program due to its geographical location.

In relation to all other non-cooperating exporters, neither the GOC nor the individual exporters themselves provided information regarding whether benefits were conferred on these exporters under this program.

The GOC was asked to provide usage information, considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under this program. This information was not provided.

Noting that a cooperating exporter received this program during the investigation period, in the absence of relevant information, ACBPS considers it is likely that certain non-cooperating exporters that are located in Dalian development zone meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters have had benefits conferred to them by financial contributions under this program during the investigation period in the form of tax savings.

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), in the absence of other information, ACBPS considers that the subsidy amount calculated for the cooperating exporter is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters, and has used this information as a basis for its calculations.

9.7.7.1 Submissions to SEF193 and ACBPS' assessment

One Submission was received from China Iron and Steel Industry (CISA) regarding Program 34.

CISA submitted that non-cooperating Chinese exporters are not subject to program 34. CISA stated that TAGAL is the only company located in Dalian Development Zone to meet the eligibility criteria for this program.

ACBPS did not receive any information by either the GOC or the individual exporters themselves regarding the location of the non-cooperators. The GOC was asked to provide usage information considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under these programs. The GOC did not provide the information.

However in light of the above receipt of the program by cooperating exporters, ACBPS considers it likely that non-cooperating exporters are eligible for these programs.

Details of the assessment of the benefit for the non-cooperating exporters are contained section 9.7.7 of this report.

9.7.8 Conclusion – exemption/reduction of taxation programs

In light of the above, ACBPS determines the following taxation programs to be countervailable subsidies in relation to galvanised steel and aluminium zinc coated steel:

- Program 4: Preferential tax policies for enterprises with foreign investment established in the coastal economic open areas and economic and technological development zones.
- Program 5: Preferential Tax Policies for Foreign Invested Enterprises (FIEs) – Reduced Tax Rate for Productive FIEs scheduled to operate for a period of not less than 10 years
- Program 6: Preferential tax policies for enterprises with foreign investment established in Special Economic Zones (excluding Shanghai Pudong area)
- Program 7: Preferential tax policies for enterprises with foreign investment established in Pudong area of Shanghai.
- Program 8: Preferential Tax Policies in the Western Regions
- Program 9: Land Use Tax Deduction
- Program 10: Preferential Tax Policies for High and New Technology Enterprises
- Program 11: Tariff and VAT Exemptions on Imported Materials and Equipments
- Program 34: VAT refund on Domestic Sales by local tax Authority

9.8 Financial Grants - Programs 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35 and 36

Background

The applications alleged that Chinese producers of galvanised steel and aluminium zinc coated steel are likely to have benefited from the following grant programs:

- Program 12: One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China';
- Program 13: Matching Funds for International Market Development for small and medium size enterprises (SMEs);
- Program 14: Superstar Enterprise Grant
- Program 15: R&D Assistance Grant;
- Program 16: Patent Award of Guangdong Province;
- Program 17: Innovative Experimental Enterprise Grant;
- Program 18: Special Support Fund for Non-State-Owned Enterprises;
- Program 19: Venture Investment Fund of Hi-Tech Industry;
- Program 20: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment;
- Program 21: Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan;
- Program 22: Water Conservancy Fund Deduction;
- Program 23: Wuxing District Freight Assistance;
- Program 24: Huzhou City Public Listing Grant;
- Program 25: Huzhou City Quality Award;
- Program 26: Huzhou Industry Enterprise Transformation & Upgrade Development Fund;
- Program 27: Wuxing District Public List Grant;
- Program 28: Anti-dumping Respondent Assistance; and
- Program 29: Technology Project Assistance

Under these programs certain enterprises are eligible for cash grants provided by the GOC.[34] Benefits are conferred to these enterprises in the amount of funds provided.

During the course of its investigation ACBPS requested information from all cooperating exporters in relation to benefits received over the period 1 January 2007 to 30 June 2012. The purpose of requesting data for years prior to the investigation period was to determine whether countervailable subsidies had been received that should be amortised over a period of years, such that a benefit could found to be attributable to the period of investigation. Cooperating exporters advised of a number of payments from the GOC[35] in prior periods. On further investigation it was found that a number of these were in the form of one-off grants or payments such that no benefit could said to have been received in relation to exports of galvanised steel and/or aluminium zinc coated steel during the investigation period. ACBPS has therefore not included examination of such payments in this report.

Further investigation of information from cooperating exporters has shown that galvanised steel and/or aluminium zinc coated steel exporters have received other benefits in the investigation period. ACBPS has assigned the following descriptions to those 'programs':

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[34] Either centrally, or through provincial or local government.

[35] Either centrally, or through provincial or local government.

- Program 30: Capital injection;
- Program 31: Environmental protection grant;
- Program 32: High and New Technology Enterprise Grant;
- Program 33: Independent Innovation and High-Tech Industrialisation Program;
- Program 35: Environmental Prize; and
- Program 36: Jinzhou District Research and Development Assistance Program.

WTO Notification

ACBPS is not aware of any WTO notification in respect of these programs.

9.8.1 Programs 12 to 29

Legal basis and eligibility criteria

Program 12: One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'

Legal basis

Decision Concerning Commending and/ or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of 'China Worldwide Famous Brand', 'China Famous Brand', or 'China Well-Known Brand'.

The government of Guangdong province is responsible for the administration and management of this program.

Eligibility criteria

- enterprises whose products qualify for the title of 'China Worldwide famous Brand'; and
- enterprises whose products qualify for the title of 'China well-known brand' and/or 'famous trademark (China famous Trademark)'.

Program 13: Matching Funds for International Market Development for SMEs

Legal basis

Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises.

The program is administered by the Ministry of Finance and Ministry of Commerce, with the assistance of other competent authorities, and is implemented by the local finance and foreign trade authorities in their respective jurisdictions.

Eligibility criteria

SME enterprises that have:

- a legal personality according to law;

- the capacity to manage an import or export business;
- made exports in the previous year of 15,000,000 (before 2010) or 45,000,000 (after 2010) US dollars or less;
- sound financial management systems and records;
- employees who specialise in foreign trade and economic business who possess the basic skills of foreign trade and economics; and
- a solid market development plan.

Program 14: Superstar Enterprise Grant

Legal basis

- *Measures for Assessment and Encouragement of Superstar Enterprises and Excellent Enterprises; and*
- *Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises, Excellent Enterprises and Backbone Enterprises*.

This program is administrated by the Huzhou Economic Committee

Eligibility criteria

Enterprises located in Huzhou city that satisfy the following criteria.

(a) The 'output scale' of the enterprise must meet one of the following criteria:

- business income of the current year not exceeding RMB 3.5 billion and sales;
- revenue within the city exceeding RMB 2 billion;
- sales revenue within the city exceeding RMB 2.5 billion;
- sales revenue within the city exceeding RMB 1.5 billion where the increase of sales revenue between 2007 and 2008 was more than 30% and the increased paid up tax between 2007 and 2008 was more than RMB 10 million; or
- revenue from self-export of current year is more than USD150 million.

(b) The enterprise's accumulated industrial input between 2006 to 2008 must have exceeded RMB 150 million.

(c) The enterprise must be profitable, and its VAT 'paid up', while its

- consumption tax;
- income tax;
- business tax;
- city construction tax; and
- education supplementary tax

must exceed RMB 30 million.

(d) The enterprise must not have suffered environmental or ‘unsafe production accidents’ (or other illegal incidents) in the current year.

(e) If the enterprise is not state-owned, it must have passed the ‘Five- Good Enterprises’ assessment conducted by its county or district.

Program 15: Research & Development (R&D) Assistance Grant

Legal basis

Notice of the Office of People’s Government of Wuxing District on Publishing and Issuing the Management Measures on Three Types of Science and Technology Expenses of Wuxing District.

The GOC stated that the funding shall not be more than RMB150,000 and the duration for supporting an enterprise shall not be more than 3 years.

The government of Wuxing district and the Science and Technology Bureau of Wuxing District (‘STB’) are jointly responsible for the administration of this program.

Eligibility criteria

The GOC stated that to qualify for this grant, applicant must meet the following requirements:

- register and operate in Jinzhou New District;
- Have complete organisational structure, R&D facilities and intellectual protection measures;
- Have definite direction and task for technology development and technology research and have independent assets and funds;
- have a technology team with strong capacities to do research and development; and
- have more than one patent or science and technology project of municipal level and above.

The GOC provided further information stating that the purpose of the grant is to accelerate the transformation of the economic development pattern and economic restructure of Jinzhou New District, enhance the capacity of self-dependent innovation of the district, implementing the strategy on “innovative Urban District”, and making efforts to achieve the sound and rapid economy development of Jinzhou New District

Program 16: Patent Award of Guangdong Province

Legal basis

2009 Guangdong Patent Award Implementation Proposal.

Administered by the Guangdong Province Department of Intellectual Property and Department of Personnel.

Eligibility criteria

The award is granted to enterprises that have an ‘innovations and utility models’ or an ‘industrial design’ patent.

An application under the ‘innovations and utility models’ patent category must establish that:

- the product in question is skilfully constructed and innovative with high creation and technical level;
- the product contributes to technical improvement and creation;
- the patent has created or has the potential to bring significant economic or social benefit; and
- the patent holder has significantly protected the patent.

An application under the industrial design category must establish that:

- the industrial design has reached high level at shape, pattern and colour;
- application of this industrial design has brought or has the potential to bring significant economic or social benefit; and
- the patent holder has significantly protected the patent.

Program 17: Innovative Experimental Enterprise Grant

Legal basis

Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises.

Administered by the administrative office of Science and Technology Bureau of Zhejiang province.

Eligibility criteria

Eligible enterprises are those that are located in Zhejiang Province, and are:

- independent economic entities with ‘reasonable asset-liability ratios’, consistent earnings over the past 3 years, and an increasing market share;
- well placed to undertake research and development activities with a provincial or new and high-tech technology centre available, and proven relationships with colleges and scientific research centres;
- investing at least 5% of annual sales income;
- using intellectual property rights to protect major products; and
- strongly committed to technological innovation and Protection with previous technological achievements.

Program 18: Special Support Fund for Non-State-Owned Enterprises

Legal basis

Notions concerning accelerating the growth of the non-state-owned economy.

Eligibility criteria

- non-SOEs (SIEs) located in Yunnan Province.

Program 19: Venture Investment Fund of Hi-Tech Industry

Legal basis

Circular of Chongqing People's Government Office on Temporary Administration Measures on Venture Investment Fund of Hi-tech Industry in Chongqing.

The program is administered by the Chongqing Venture Investment Fund.

Eligibility criteria

Enterprises with 'high-tech programs' located in the High-Tech Zone or the High-Tech Park of the new Northern District.

In addition:

- the program must have a leading technological position in its field, and sufficient experience to enter the industrialisation development phase (industrialisation programs with intellectual property rights are given priority);
- the product must be of high quality and have potential economic benefit to the collective development of the Chongqing High-Tech Industry Zone;
- the department supporting the program must have good credit, excellent operation mechanisms and strong innovation abilities;
- the enterprise must have good legal standing; and
- the total investment in the program must be RMB 100 million or more.

Program 20: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment

Legal basis

Provisions of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters

Administered by the local commerce authority of Guangzhou.

Eligibility criteria

This program is available to enterprises whose headquarters are established in the Guangzhou Municipality by a foreign investor.

To qualify as ‘Headquarters’ the facility must control all the operations and management of any enterprises it is invested in, both in China and internationally.

Only one enterprise Headquarters is permitted in the Guangzhou Municipality.

To qualify as ‘Regional Headquarters’, the facility must control operations and management of some or all enterprises it is invested in a certain area of China.

Headquarters or Regional headquarters may be of investment companies, management companies, research and development centres, and production enterprises.

Program 21: Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan

Legal basis

Notice of Issuing ‘Method for Determination of Key Enterprises in Equipment Manufacturing Industry of Zhongshan,’ Zhong Fu (2005) No.127.

The program is administered by the local economic and trade office, by the Municipal Economic and Trade Bureau (‘METB’) and by the Municipal Leading Group of Accelerating Development of Equipment Manufacturing Industry of Zhongshan City (‘MLG’).

Eligibility criteria

For an enterprise to be eligible for this program:

- it must be established, registered and carrying out business in Zhongshan City;
- its primary product must be part of the equipment manufacturing industry and comply with the relevant industrial policies;
- it must have assets over RMB 30 million, annual sales income of over RMB 50 million and annual paid-in tax of over RMB 3 million or, alternatively, the enterprise’s main economic and technical indices must be at the forefront of the equipment manufacturing industry in the country or province, and have potential for additional development;
- it must have implemented a brand strategy, established a technical centre for research and development and be comparatively strong in its capacity for independent development and technical innovation; and
- it must have good credit standing.

Program 22: Water Conservancy Fund Deduction

Legal basis

Notification of Relevant Problems of Further Strengthening Water Conservancy Fund Deduction Administration of Zhejiang Province Local Taxation Bureau (ZheDiShuiFa [2007] No.63).

This program is administered by the Local Taxation Bureau of Zhejiang Province and it is implemented by the competent local taxation authorities of the municipal and county levels in Zhejiang Province.

Eligibility criteria

The GOC has confirmed that only enterprises satisfying one of following criteria will eligible for the grant under this program:

- provide job opportunities to laid-off workers, the disabled, and retired soldiers searching for jobs;
- enterprises that 'utilize resource comprehensively as designated by government department above municipal level';
- trading enterprises of commodities with annual gross profit rate of less than 5%;
- enterprises undertaking 'State reserve and sale, the portion of revenues incurred from that undertaking may qualify for an exemption of the fee';
- 'advanced manufacturing enterprises' or key enterprises as designated by the municipal government, which are undertaking technology development projects and incurring development expenditure at an amount above RMB1 million;
- 'insurance company's revenue from sales which are subject to exemption of excise tax';
- 'bank's revenue from turnovers between banks';
- 'revenue from sales between members of an enterprise group subject to same consolidated financial statement'.

Program 23 – Wuxing District Freight Assistance

Legal basis

Several Opinions On Further Supporting Industrial Sector To Separate And Develop Producer-Service Industry (HuZhengBanFa [2008] 109).

This program is administered by the Finance Bureau of Huzhou City.

Eligibility criteria

Those enterprises whose annual freight cost is RMB 3 million or above, will be refunded 50% of the increase in the annual turnover tax which is paid locally by the transportation business and which is retained by the city. This increase is measured over the amount of tax paid in 2007.

For enterprises whose annually paid income tax is RMB100,000 or above:

- 100% of the income tax paid by the 'separated enterprise' and retained by the city will be granted as assistance in each of the three years after the establishment date of the separated enterprise; and
- 50% of the turnover tax paid by the separated enterprise and retained by the city will be granted as assistance in each of the three years after the establishment date of the separated enterprise.

Program 24: Huzhou City Public Listing Grant

Legal basis

Notification of Government of Huzhou City (HuBan No.160).

This program is administrated by the Finance Bureau of Huzhou City.

Eligibility criteria

Enterprises that successfully completed listing of shares during 2010.

Program 25: Huzhou City Quality Award

Legal basis

Notification of the Office of People's Government of Huzhou City (HuZhengBanFa No.60).

The Government of Huzhou City and the Bureau for Quality and Technical Supervision are jointly responsible for the administration of this program.

Eligibility criteria

The award is granted to no more than three enterprises each year that are registered in Huzhou City and have been in operation for more than three years and that have:

- 'enjoyed excellent performance';
- 'implemented quality management'; and
- 'obtained a leading position in industry with significant economic benefits and social benefits'.

The products of an applicant must also meet the standards provided by laws and regulations regarding product safety, environmental protection, field safety as well as relevant industrial policy.

Program 26: Huzhou Industry Enterprise Transformation & Upgrade Development Fund

Legal basis

The purpose of the program is to promote industrial structure adjustment and upgrading, and to support technology updating and innovation of enterprises.

The GOC has advised that there is no single purpose legal document directly related to any benefit received by a respondent under investigation.

The Bureau of Finance and the Economic and Information Committee of Huzhou City are jointly responsible for the administration of this program. The Bureau of Finance and the Economic and Information Committee of Huzhou City examine and approve applications, with the funds provided from the budget of the Financial Bureau of Huzhou City.

Eligibility criteria

This Program is limited to enterprises registered in Huzhou and encourages the transformation and upgrade of enterprises, 'including but not limited to industry upgrades, and to promote equipment manufacturing industry, high and new technology industry and new industry'.

Program 27: Wuxing District Public List Grant

Legal basis

Notification on Awarding Advanced Individuals and Advanced Entities of Industrial Economy and Open Economy for the Year of 2010 (WuWeiFa [2011] No.14).

This program is administered by the Government of Wuxing District.

Eligibility criteria

A grant is available to eligible advanced publicly listed enterprises.

Program 28: Anti-dumping Respondent Assistance

Legal basis

Notification of Receiving Fair Trade Assistance by Wuxing Foreign Economic and Trade Bureau.

This program is administrated by Wuxing District Foreign Economic and Trade Bureau.

Eligibility criteria

Enterprises which incurred expenses in an anti-dumping proceeding may benefit from this program.

Program 29: Technology Project Assistance

Legal basis

Interim Measure for Administration of Post-completion Assistance or Loan Interest Grant for Industrialization of Science and Technology Achievements Sponsored by Zhejiang Province (2008).

The Bureau of Finance and the Science and Technology Bureau of Huzhou City are jointly responsible for the administration of this program.

Eligibility criteria

This program is available to enterprises that undertake a scientific research project which meets the scope of the projects encouraged under this program.

9.8.1.1 Are there subsidies?

Based on the information above, ACBPS considers that the grants provided under these programs are financial contributions by the GOC, which involve a direct transfer of funds by GOC to the recipient enterprises in China.

Due to the nature of each grant, and in light of the limited information available, it is considered that a financial contribution under each program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including galvanised steel and aluminium zinc coated steel).

ACBPS noted that programs 12 to 29 have been investigated recently during INV 177 and found to be countervailable subsidies.

This financial contribution is considered to confer a benefit to recipient manufacturers of galvanised steel and/or aluminium zinc coated steel due to receipt of funds from the GOC.

Where exporters of galvanised steel and/or aluminium zinc coated steel during the investigation period received grants under any of the above programs, these would therefore confer a benefit in relation to the goods, and these financial contributions would meet the definition of a subsidy under s.269T.

9.8.1.2 Are the subsidies countervailable subsidies (specific or prohibited)?

As provided for in s.269TAAC(2)(a) a subsidy is specific if access to the subsidy is explicitly limited by law to particular enterprises.

In accordance with the above-listed eligibility criteria, each grant is limited to specific enterprises either by location, enterprise type; product manufacture; ownership structure; the possession of certain patents; trading focus (export oriented); public listing status; participation in an anti-dumping investigation; hi-tech status; and length of operation; capital contribution or other criteria.

As the criteria or conditions providing access to the subsidies favours particular enterprises over all other enterprises in China, the specificity of these subsidies is not excepted by reference to s.269TAAC(3).

ACBPS therefore considers each of the above-listed grant programs to be specific.

9.8.1.3 The amount of subsidy in respect of the goods

Programs: 12-14 and16-29

Cooperating exporters

ACBPS has determined that none of the cooperating exporters has received financial contributions in respect of galvanised steel and/or aluminium zinc coated steel under these programs during the investigation period.

ACBPS therefore considers a zero subsidy rate is applicable to all cooperating exporters under these programs.

Non-cooperating exporters

Wuhan did not cooperate with the countervailing investigations; however certain relevant information was provided and considered reliable for the purpose of the dumping investigations. ACBPS considers that Wuhan would not be eligible for Programs 14, 20, 21, 23, 24, 25, 26 and 27 due to its geographical location.

ACBPS considers that Wuhan may be eligible to receive benefits under Programs 12, 13, 15, 17, 18, 19, 22, 28 and 29. The calculation of the benefit attributed to Wuhan for these programs is the same as that described below for all other non-cooperating exporters.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under these programs.

These programs were investigated in INV177. The GOC was asked to provide any amendments to laws, regulations or policy that evidence that this program was not relevant to current investigations. The GOC did not provide any further information other than referring to any subsidies that were applicable to the five cooperating exporters.

It is noted that some of these programs are limited to enterprises in specific regions in China. ACBPS requested the GOC provide information as to the location of all galvanised steel and/or aluminium zinc coated steel exporters in China, but this was not provided. Noting that at least some of these programs are limited in operation to specific areas in China, ACBPS does not have reliable information as to the location of non-cooperating exporters.

However ACBPS considers it likely that some non-cooperating exporters are eligible for these programs in their respective provinces.

In accordance with s.269TACC(2), receipt of the above grants are taken to have conferred a benefit because of the direct financial payment.

Having regard to the nature and eligibility criteria for each subsidy, it is considered that the financial contribution received for each program was in respect of all goods sold by that exporter (including galvanised steel and aluminium zinc coated steel).

In the absence of usage information, ACBPS considers that:

- s.269TACC(2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under these programs; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(7), ACBPS determines that non-cooperating exporters have had benefits conferred to them under these programs during the investigation period in the form of direct transfers of funds (grants).

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that:

1. where the legislative instrument that establishes the program specifies the maximum financial contribution that can be made under that program, that maximum amount be the amount determined to be the benefit for each program;
2. where the maximum financial contribution grantable under a program is not stipulated in its legal instrument (or where no known legal instrument exists), the amount of the financial contribution shall be considered to be the maximum amount found in relation to point 1.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

9.8.2 Programs 30, 31, 32, 33, 35 and 36

Program 30: Capital injection

One of the cooperating exporters provided a list of cash receipts in order for ACBPS to determine whether any other subsidies had been received, but not declared in the questionnaire response. In that list of cash receipts it recorded a number of payments with the identifier ‘Capital Contribution’.

ACBPS asked the exporter to explain the nature of these receipts. It explained that it receives capital from the Ministry of Finance when it requires funds for investment and it accounts for it in its financial records as ‘other account payable’. It advised that the contribution would be converted to equity at a later time. It stated that the various receipts received from the Ministry of Finance over the prior years, as recorded in the list of cash receipts, had yet to be converted to equity and would be converted at an unspecified point in the future.

The GOC was initially asked as part of the SGQ to advise whether it had provided any form of capital assistance to any business in relevant industries in the last 5 years[36]. The GOC expressed its concern about the 'legitimacy' of such a question in the context of an anti-dumping investigation and stated that if it is claimed that a subsidy has been provided, a countervailing investigation should be conducted to consider such a claim. ACBPS subsequently asked the GOC about the payments in the SSGQ, which related specifically to the subsidy investigation. ACBPS identified the recipient exporter in the SSGQ. The GOC advised that it was not able to confirm if there was a 'program 30' and whether the exporter was granted any such subsidy and otherwise did not provide any information. ACBPS asked further specific questions in relation to the payments to the relevant exporter, characterised as capital contributions, and the GOC referred only to its earlier answer that it was unaware of any program or benefits.

ACBPS considers that given that the exporter concerned is an SIE and payments were from the Ministry of Finance, the GOC is in the best position to provide information about the payments. ACBPS considers the GOC's response in this regard to be non-cooperative.

Legal basis

ACBPS is not aware of any legal basis for this program. The Ministry of Finance (MOF) appears to be responsible for administering this program.

Eligibility criteria

ACBPS is not aware of the eligibility criteria for this program.

Specificity

Due to the lack of information provided by the GOC, ACBPS has based its finding on the available information. It finds that capital injections by the GOC could be made only to SIEs, and therefore only SIEs can benefit from this program.

ACBPS therefore finds the program to be specific, and countervailable.

Amount of the subsidy - cooperating exporters

ACBPS has determined that one of the cooperating exporters has received financial contributions in respect of the goods under this program.

Having regard to the nature of the subsidy, it is considered that the financial contribution received was in respect of all goods sold by the exporter (including galvanised steel and aluminium zinc coated steel). The exporter advised that the contributions were used to purchase assets but it was not able to identify which specific assets the funds had been used for.

[36] SGQ Question 10(a) refers

In accordance with s.269TACC(2), receipt of the grant is taken to have conferred a benefit because of the direct financial payment to the exporter.

The payments by the GOC are not considered by ACBPS to be the provision of equity capital (s.269TACC(4)(a)) because no equity adjustment has been made following receipt of the payments. The payments are not considered to be loans (s.269TACC(4)(b)) as there appears to be no requirement for the exporter to repay the amounts.

In accordance with s.269TACC(6)(a), the amount of that benefit is taken to be equal to the sum granted.

In accordance with s.269TACC(10), the total amount of subsidy received by the cooperating exporter has been apportioned based on the following formula:

$$A_K = \frac{y/n + [y - (y/n)(k-1)]d}{1 + d}$$

Where:

Ak = the amount of the benefit allocated to year k,
y = the face value of the subsidy,
n = the Average Useful Life of assets,
d = the discount rate, and
k = the year of allocation where the year of receipt = 1 and $1 \leq k \leq n$.

The AUL has been calculated based on information relating to fixed assets contained in the exporter's annual report for 2011. The AUL used is 15 years. The discount rate is the lower end of the range of long-term loan rates of the exporter set out in the exporter's annual reports for 2010 and 2011 and the interim report for 2012.

ACBPS considers a zero subsidy rate is applicable to all other cooperating exporters under this program.

Non-cooperating exporters

For non-cooperating exporters, including Wuhan, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under these programs.

Wuhan is an SIE and on this basis ACBPS considers, in the absence of relevant information and in light of the above receipt of the program by one cooperating exporter, that it is likely that Wuhan was eligible for and received a financial contribution under this program. Based on information from its import database ACBPS is aware that other non-cooperating exporters are also SIEs and meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(10), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of direct transfers of funds (grants).

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that the subsidy amount calculated for the cooperating exporter is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters in this investigation, and has used this information as a basis for its calculations.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

Program 31: Environmental protection grant

One of the cooperating exporters provided a list of cash receipts in order for ACBPS to determine whether any other subsidies had been received, but not declared in the questionnaire response. In that list of cash receipts it recorded a number of payments with the identifier ‘Environmental Protection – Equity Construction’. The payer was said to be the Ministry of Finance.

ACBPS asked the exporter to explain the nature of these receipts. It explained that the program is available to enterprises to purchase equipment to help protect the environment. ACBPS questioned the exporter about the meaning of the term *‘equity construction*’ and it clarified that it was referring to construction of buildings and plants and purchase of other assets.

Furthermore, the exporter explained that it was difficult to identify what assets were purchased with each payment and which assets belong to a specific project. The assets have been used for enhancing the production all goods including galvanised steel and aluminium zinc coated steel.

The GOC advised that it was not able to confirm if there was a ‘program 31’ and otherwise did not provide any information. ACBPS considers that given the exporter is an SIE and payments were said to be from the Ministry of Finance, the GOC is in the best position to provide information about the payments. ACBPS considers the GOC’s response in this regard to be non-cooperative.

<u>Legal basis</u>

ACBPS is not aware of any legal basis for this program.

Eligibility criteria

ACBPS is not aware of the eligibility criteria for this program.

Specificity

Due to the lack of information provided by the GOC, ACBPS considers that enterprises must meet some criteria in relation to their environmental projects in order to be eligible for the subsidy.

ACBPS considers the program is specific, and countervailable.

Amount of the subsidy – cooperating exporters

ACBPS has determined that one of the cooperating exporters has received financial contributions in respect of the goods under this program.

Having regard to the nature of the subsidy, it is considered that the financial contribution received was in respect of all goods sold by the exporter (including galvanised steel and aluminium zinc coated steel). The exporter advised that the contributions were used to purchase assets but it was not able to identify which specific assets the funds had been used for.

In accordance with s.269TACC(2), receipt of the grant is taken to have conferred a benefit because of the direct financial payment to the exporter.

In accordance with s.269TACC(6)(a), the amount of that benefit is taken to be equal to the sum granted.

In accordance with s.269TACC(10), the total amount of subsidy received by the cooperating exporter has been apportioned based on the following formula:

$$A_K = \frac{y/n + [y - (y/n)(k-1)]d}{1 + d}$$

Where:

Ak = the amount of the benefit allocated to year k,
y = the face value of the subsidy,
n = the Average Useful Life of assets,
d = the discount rate, and
k = the year of allocation where the year of receipt = 1 and $1 \leq k \leq n$.

The AUL has been calculated based on information relating to fixed assets contained in the exporter's annual report for 2011. The AUL used is 15 years. The discount rate is the lower end of the range of long-term loan rates of the exporter set out in the exporter's annual reports for 2010 and 2011 and the interim report for 2012.

ACBPS considers a zero subsidy rate is applicable to all other cooperating exporters under this program.

Amount of the subsidy - non-cooperating exporters

For non-cooperating exporters, including Wuhan, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under these programs.

The GOC was asked to provide usage information, considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under this program. This information was not provided.

In the absence of the above relevant information, and in light of the above receipt of the program by one cooperating exporter, ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(10), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of direct transfers of funds (grants).

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that the subsidy amount calculated for the cooperating exporter is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters in this investigation, and has used this information as a basis for its calculations.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

Program 32: High and New Technology Enterprise Grant

One of the cooperating exporters provided a list of cash receipts in order for ACBPS to determine whether any other subsidies had been received, but not declared in the questionnaire response. In that list of cash receipts it recorded a number of payments with the identifier ‘High and New Technology Enterprise Grant’.

Legal basis

The GOC stated that the program is to '*accelerate the transformation of economic development pattern and economic restructure of Jinzhou New District; enhance the capacity of self-dependent innovation of the Jinzhou New District*'.

The exporter referred to '*Science and Bureau District Bureau in Dalian Jinzhou District – Circular on issuing Science and Technology Plan and Funds indicators of Jinzhou District 2012 – Circular number 31"*

The Jinzhou District Science and Technology Bureau of Jinzhou New District is responsible for administering this program

Eligibility criteria

The GOC stated that to be eligible for this program, the applicant must be an enterprise newly identified as State-Level High and New Technology Enterprise, which is also registered and operated in Jinzhou New District, and is in accordance with the industry development orientation of the district.

The funding is one-time grant of RMB 100,000.

Specificity

The grant is only available to enterprises meeting certain criteria, being that they are identified as State-Level High and New Technology Enterprise and operate in a particular district. ACBPS therefore considers the program to be specific and countervailable.

Amount of the benefit - cooperating exporters

ACBPS has determined that one of the cooperating exporters has received financial contributions in respect of the goods under this program during the investigation period.

Having regard to the nature and eligibility criteria for the subsidy, it is considered that the financial contribution received was in respect of all goods sold by that exporter (including galvanised steel and aluminium zinc coated steel).

In accordance with s.269TACC(2), receipt of the grant is taken to have conferred a benefit because of the direct financial payment to the exporter.

In accordance with s.269TACC(6)(a), the amount of that benefit is taken to be equal to the sum granted.

In accordance with s.269TACC(10), the total amount of subsidy received by the cooperating exporter has been apportioned to each unit of the goods using that exporter's total sales volume.

ACBPS considers a zero subsidy rate is applicable to all other cooperating exporters under this program.

Non-cooperating exporters

Based on relevant information supplied by Wuhan to the dumping investigation ACBPS considers that it would not be eligible for this program due to its geographic location.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under this program.

The GOC was asked to provide usage information considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under this program. This information was not provided.

Furthermore, it is noted that this program is limited to enterprises in specific regions in China. ACBPS requested the GOC provide information as to the location of all galvanised steel and aluminium zinc coated steel exporters in China, but this was not provided.

In the absence of the above relevant information, and in light of the above receipt of the program by two cooperating exporters, ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(10), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of direct transfers of funds (grants).

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that the subsidy amount calculated for the cooperating exporter is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters in this investigation, and has used this information as a basis for its calculations.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

Program 33: Independent Innovation and High-Tech Industrialisation Program

One cooperating exporter reported receiving a payment from the Ministry of Finance that it described as 'R&D Assistance Grant'. On examining the documents provided by the exporter in support of this payment, ACBPS considers that this program is not the same as Program 15 (discussed above).

Legal basis

Ministry of Finance document *Cai Jian [2011] No. 471* – Circular of Ministry of Finance on Issuing Infrastructure Expending Budget (Allocation) Limited to Central Budget for independent innovation and High-tech Industrialization Program (Tempest Class) in 2011

Eligibility Criteria

ACBPS is not aware of the eligibility criteria for this program.

Specificity – is there a subsidy?

The Ministry of Finance Circular is directed only to certain named enterprises. ACBPS therefore considers the program to be specific and countervailable.

Cooperating exporters

ACBPS has determined that one of the cooperating exporters has received financial contributions in respect of the goods under this program during the investigation period.

Having regard to the nature of the subsidy, it is considered that the financial contribution received was in respect of all goods sold by the exporter (including galvanised steel and aluminium zinc coated steel). The exporter advised that the contributions were used to purchase assets.

In accordance with s.269TACC(2), receipt of the grant is taken to have conferred a benefit because of the direct financial payment to the exporter.

In accordance with s.269TACC(6)(a), the amount of that benefit is taken to be equal to the sum granted.

In accordance with s.269TACC(10), the total amount of subsidy received by the cooperating exporter has been apportioned based on the following formula:

$$A_K = \frac{y/n + [y - (y/n)(k-1)]d}{1 + d}$$

Where:

A_k = the amount of the benefit allocated to year k,
y = the face value of the subsidy,
n = the Average Useful Life of assets,
d = the discount rate, and
k = the year of allocation where the year of receipt = 1 and $1 \leq k \leq n$.

The AUL has been calculated based on information relating to fixed assets contained in the exporter's annual report for 2011. The AUL used is 15 years. The discount rate is the lower end of the range of long-term loan rates of the exporter set out in the exporter's annual reports for 2010 and 2011 and the interim report for 2012.

ACBPS considers a zero subsidy rate is applicable to all other cooperating exporters under this program.

Non-cooperating exporters

For non-cooperating exporters, including Wuhan, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under these programs.

The GOC was asked to provide usage information considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under these programs. The GOC did not provide information.

However in light of the above receipt of the program by cooperating exporters ACBPS considers it likely that non-cooperating exporters are eligible for these programs in their respective provinces.

In accordance with s.269TACC(2), receipt of the above grants are taken to have conferred a benefit because of the direct financial payment.

Having regard to the nature and eligibility criteria for each subsidy, and in light of further information, it is considered that the financial contribution received for this program was in respect of all goods sold by those exporters (including galvanised steel and aluminium zinc coated steel).

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under these programs; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(10), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of direct transfers of funds (grants).

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that the subsidy amount calculated for the cooperating exporter is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters in this investigation, and has used this information as a basis for its calculations.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

Program 35: Environmental Prize

Two cooperating exporters were identified as receiving benefits from this program, however only one exporter received a benefit during the investigation period.

The GOC stated that the purpose of this program is to encourage the enterprises who won the title of 'Green Enterprise" in the previous three years.

The GOC further stated that '*the program was administered under some administrative rules of Changshu City",* but did not provide any documentary evidence.

It appears that the Environment Protection Bureau and Finance Bureau of Changshu City were jointly responsible for administering this program

Eligibility criteria

This program is available to enterprises who won the title "Green Enterprise" as a result of credit rating in the previous three straight years in Changshu City.

Specificity – is there a subsidy?

As the program is only available to enterprises that meet certain criteria, ACBPS considers the program is specific and countervailable.

Amount of the subsidy - cooperating exporters

ACBPS has determined that one of the cooperating exporters has received financial contributions in respect of the goods under this program during the investigation period.

Having regard to the nature and eligibility criteria for the subsidy, it is considered that the financial contribution received was in respect of all goods sold by the exporter (including galvanised steel and aluminium zinc coated steel).

In accordance with s.269TACC(2), receipt of the grant is taken to have conferred a benefit because of the direct financial payment to the exporter.

In accordance with s.269TACC(6)(a), the amount of that benefit is taken to be equal to the sum granted.

In accordance with s.269TACC(10), the total amount of subsidy received by the cooperating exporter has been apportioned to each unit of the goods using that exporter's total sales volume.

ACBPS considers a zero subsidy rate is applicable to all other cooperating exporters under this program.

Amount of the subsidy - non-cooperating exporters

Based on relevant information supplied by Wuhan to the dumping investigation ACBPS considers that it would not be eligible for this program due to its geographic location.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under this program.

The GOC was asked to provide usage information considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under this program. This information was not provided.

In the absence of the above relevant information, and in light of the above receipt of the program by two cooperating exporters, ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(10), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of direct transfers of funds (grants).

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that the subsidy amount calculated for the cooperating exporter is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters in this investigation, and has used this information as a basis for its calculations.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

Program 36: Jinzhou District Research and Development Assistance Program

One cooperating exporter reported receiving a benefit during the investigation period under Program 15 – Research and Development Assistance Grant. On investigation of the information provided by the exporter, ACBPS considers that the funds received by the exporter were not in respect of the benefit conferred by Program 15.

Legal basis

Da Jin Ke Fa [2012] No.31 - Circular on Issuing Science and Technology Plan and Funds Indicators of Jinzhou District in 2012.

The program appears to be administered by the Jinzhou District Science and Technology Bureau of Dalian.

Eligibility criteria

The exporter advised that to be eligible for benefits under this program the enterprise must be recognised as a high and new technology enterprise and the benefits applied for must be used in research and development programs.

Specificity – is there a subsidy?

As the program is only available to enterprises that meet certain criteria, ACBPS considers the program is specific and countervailable.

Amount of the subsidy - cooperating exporters

ACBPS has determined that one of the cooperating exporters has received financial contributions in respect of the goods under this program during the investigation period.

Having regard to the nature and eligibility criteria for the subsidy, it is considered that the financial contribution received was in respect of all goods sold by the exporter (including galvanised steel and aluminium zinc coated steel).

In accordance with s.269TACC(2), receipt of the grant is taken to have conferred a benefit because of the direct financial payment to the exporter.

In accordance with s.269TACC(6)(a), the amount of that benefit is taken to be equal to the sum granted.

In accordance with s.269TACC(10), the total amount of subsidy received by the cooperating exporter has been apportioned to each unit of the goods using that exporter's total sales volume.

ACBPS considers a zero subsidy rate is applicable to all other cooperating exporters under this program.

Amount of the subsidy - non-cooperating exporters

Based on relevant information supplied by Wuhan to the dumping investigation ACBPS considers that it would not be eligible for this program due to its geographic location.

For all other non-cooperating exporters, no information was provided by either the GOC or the individual exporters themselves regarding whether benefits were conferred on these exporters under this program.

The GOC was asked to provide usage information considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under this program. This information was not provided.

In the absence of the above relevant information, and in light of the above receipt of the program by one cooperating exporter, ACBPS considers it is likely that non-cooperating exporters meet the eligibility criteria for this program, have accessed this program, and therefore received a financial contribution under this program.

In the absence of usage information, ACBPS considers that:

- s.269TACC (2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred to non-cooperating exporters under this program; and
- s.269TACC(6) is inappropriate for determining the total amount of subsidy attributable to that benefit.

Therefore, in accordance with s.269TACC(10), ACBPS determines that non-cooperating exporters have had benefits conferred to them under this program during the investigation period in the form of direct transfers of funds (grants).

In calculating the amount of subsidy attributable to that benefit under s.269TACC(7), ACBPS considers that the subsidy amount calculated for the cooperating exporter is a reasonable basis for calculating the subsidy amount attributable to non-cooperating galvanised steel and/or aluminium zinc coated steel exporters in this investigation, and has used this information as a basis for its calculations.

In attributing the amount of subsidy to each unit of galvanised steel and/or aluminium zinc coated steel under s.269TACC(10), the benefit under each subsidy program has been attributed using the lowest total sales volume of the cooperating exporters, in the absence of actual sales data for the non-cooperating exporters.

9.8.3 Submissions to SEF193 and ACBPS' assessment

One submission was received from CISA regarding programs 32 and 36.

CISA submitted that non-cooperating Chinese exporters are not subject to programs 32 and 36. CISA stated that TAGAL is the only company located in Jinzhou District to meet the eligibility criteria for these programs.

ACBPS did not receive any information by either the GOC or the individual exporters themselves regarding the location of the non-cooperators. The GOC was asked to provide usage information considered necessary to determine whether a financial contribution has been received in respect of the goods by non-cooperating exporters, and determining whether a benefit had been conferred to those exporters under these programs. The GOC did not provide the information.

However in light of the above receipt of the program by cooperating exporters, ACBPS considers it likely that non-cooperating exporters are eligible for these programs.

Details of the assessment of the benefit for the non-cooperating exporters are contained section 9.8.2 of this report under each of the above programs.

10 INJURY ASSESSMENT

10.1 Findings

ACBPS has determined that, based on verified information and data, the Australian industry (BlueScope) has experienced injury in respect of both galvanised steel and aluminium zinc coated steel.

10.2 Injury claims

(i) Galvanised steel

See section 4.1(i) for BlueScope's injury claims in respect of galvanised steel.

(ii) Aluminium zinc coated steel

See section 4.1(ii) for BlueScope's injury claims in respect of aluminium zinc coated steel.

10.3 Commencement of injury

BlueScope claims that in respect of galvanised steel and aluminium zinc coated steel, material injury to the Australian industry caused by dumped and subsidised imports commenced in 2010-11 and has been exacerbated in 2011-12.

10.4 Injury approach

The injury analysis detailed in this section is based on the verified financial information submitted by BlueScope and import data from ACBPS's import database.

BlueScope provided production, cost and sales data for "total" galvanised steel and "total" aluminium zinc coated steel products (as covered by the goods descriptions). As BlueScope manufacture and supply a wide range of like goods at varying widths and thicknesses, production, cost and sales data was also provided for key products, representing products with the highest sales volumes.

ACBPS's analysis of the economic conduction of the industry and injury factors for galvanised steel and aluminium zinc coated steel are presented separately within this section.

10.5 Cumulation of injury

Subsection 269TAE(2C) of the Act provides for consideration of the cumulative effect of exports from different countries, if, after having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced;

the Minister is satisfied that it is appropriate to consider the cumulative effects.

ACBPS has assessed that in respect of galvanised steel and aluminium zinc coated steel, in respective markets, the conditions of competition between imported and domestically produced like goods appear to be similar.

BlueScope claimed that it has been unable to increase prices to recover increased costs as a result of price undercutting by imports of galvanised steel and aluminium zinc coated steel from each of the nominated countries.

The information contained in ACBPS's import database identified several importers of galvanised steel and aluminium zinc coated steel imported from a number of the countries nominated in the dumping and subsidy investigations (which was confirmed during visits to importers). ACBPS considers that this indicates that the products are used by the same or similar customers.

As discussed at chapter 5, ACBPS has assessed that for galvanised steel and aluminium zinc coated steel and the respective imported goods that the goods are alike, have similar specifications, have similar end-uses, and compete in the same primary market segments.

ACBPS considers that it is appropriate to consider the cumulative effect of the dumped imports.

10.6 Volume effects

10.6.1 Sales volume

(i) Galvanised steel

The following graph shows BlueScope's sales volumes for galvanised steel from 2007-08 to 2011-12.

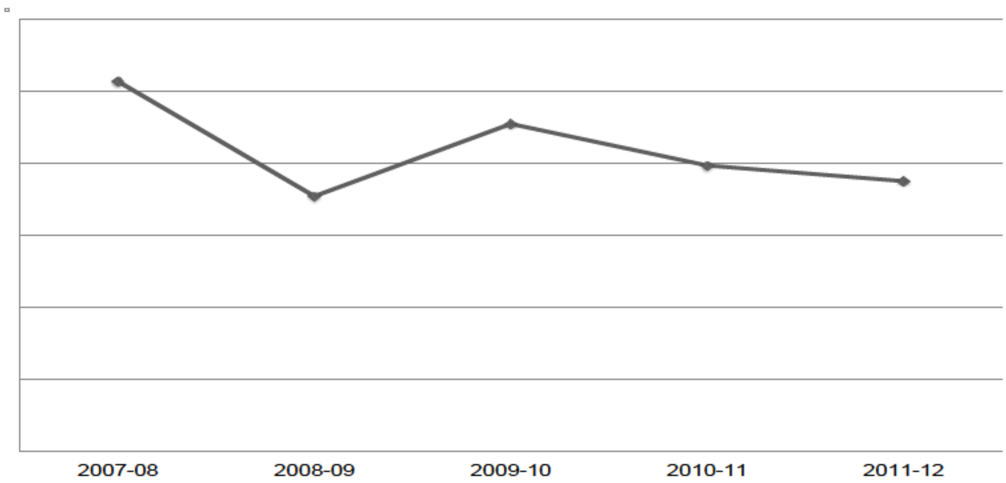


Figure 10: BlueScope's sales volume (tonnes) – galvanised steel – 2007-08 to 2011-12

This graph shows that BlueScope's domestic sales volumes of galvanised steel continually decreased since 2009-10.

(ii) Aluminium zinc coated steel

The following graph shows BlueScope's sales volumes for aluminium zinc coated steel for 2007-08 to 2011-12.

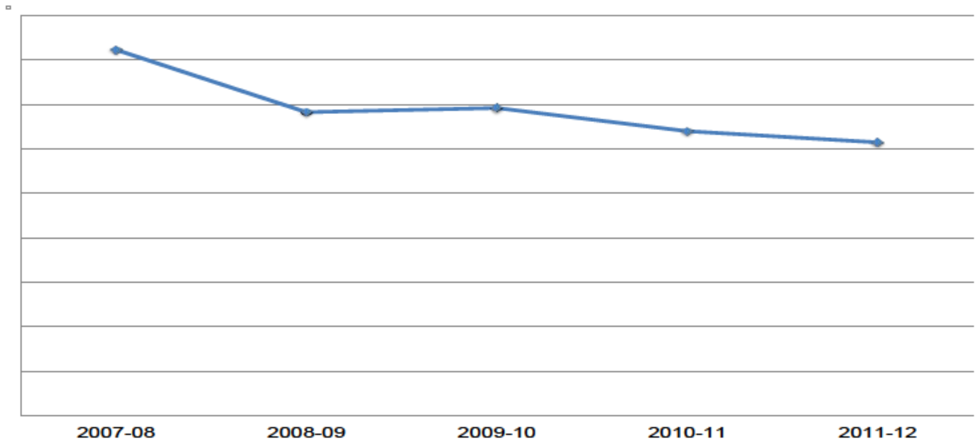


Figure 11: BlueScope's sales volume (tonnes) – aluminium zinc coated steel – 2007-08 to 2011-12

This graph shows that BlueScope's domestic sales volumes of aluminium zinc coated steel continually decreased since 2009-10. It appears that BlueScope's sales volume for aluminium zinc coated steel and galvanised steel reflect similar trends.

10.6.2 Market shares

(i) Galvanised steel

The following graph shows movements in market shares including BlueScope's market share, in the Australian market for galvanised steel for 2007-08 to 2011-12.

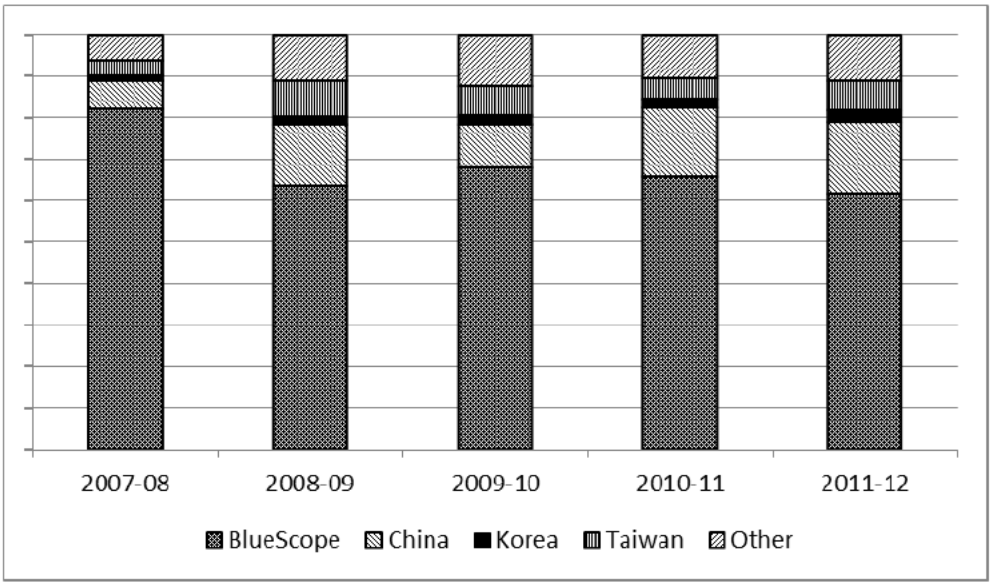


Figure 12: Market shares – galvanised steel – 2007-08 to 2011-12

This graph shows that BlueScope's market share in the Australian market for galvanised steel continually decreased since 2009-10, reflecting BlueScope's trends for sales volumes. During this period, the market share of total imports from China, Korea and Taiwan increased. Although, there has been variation in market shares held by each of the nominated countries, with the largest market share represented by imports from China.

(ii) Aluminium zinc coated steel

The following graph shows movements in market shares including BlueScope's market share, in the Australian market for aluminium zinc coated steel for 2007-08 to 2011-12.

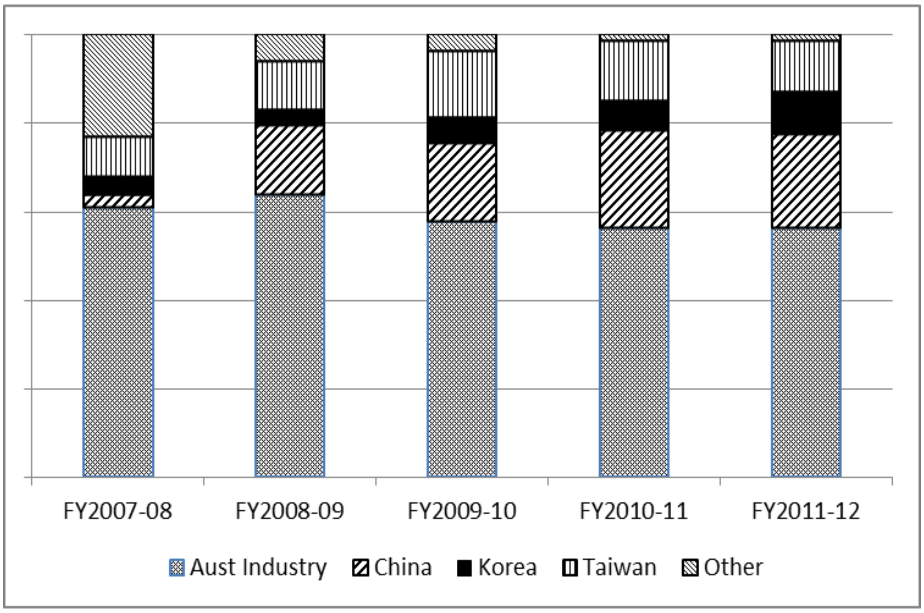


Figure 13: Market shares – aluminium zinc coated steel – 2007-08 to 2011-12

This graph shows that BlueScope's market share in the Australian market for aluminium zinc coated steel has remained relatively constant since 2009-10, in a declining market. During this period, the market share of total (aggregate) imports from China, Korea and Taiwan increased from 2008-09 to 2009-10 and has remained constant since 2009-10. Although, there has been variation in market shares held by each of the nominated countries, with the largest market share represented by imports from China. Imports from China decreased in 2011-12.

10.7 Price effects

10.7.1 Price depression and price suppression

Price depression occurs when a company, for some reason, lowers its prices. 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.

(i) Galvanised steel

The following graphs show movements in BlueScope's total and unit revenues (reflecting net prices less rebates and discounts) and costs in respect of galvanised steel for 2007-08 to 2011-12.

Total revenue and costs

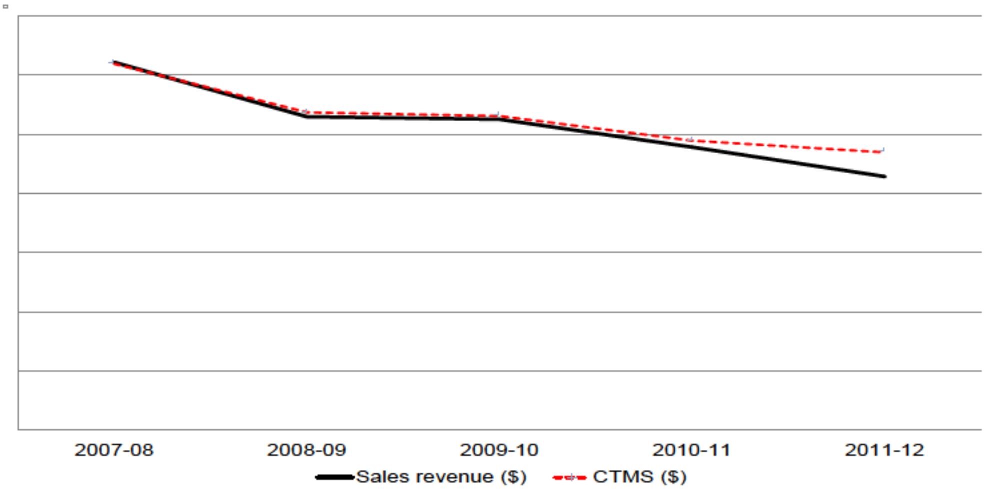


Figure 14: BlueScope's total sales revenue and costs – galvanised steel – 2007-08 to 2011-12

Unit revenue and costs (AUD ($) per tonne)

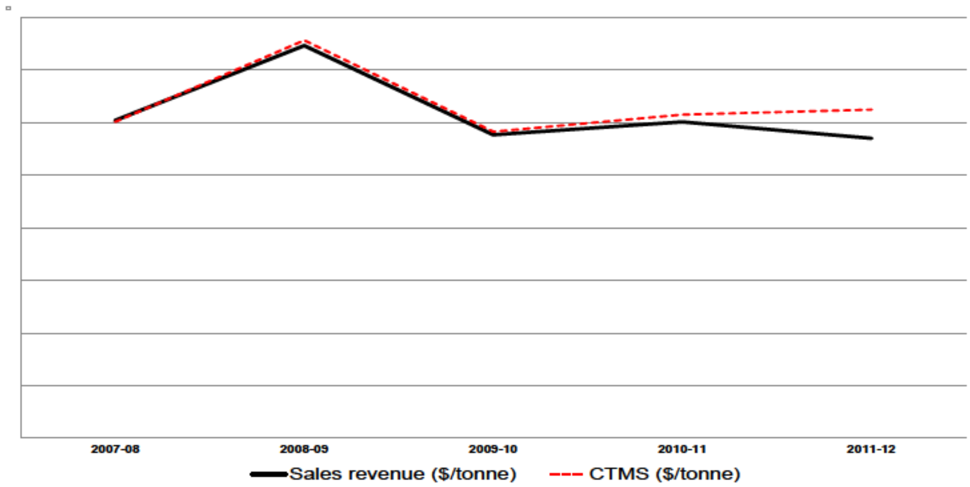


Figure 15: BlueScope's unit sales revenue and costs – galvanised steel – 2007-08 to 2011-12

The graphs show:

- total sales revenue decreased continually since 2007-08 and unit sales revenue decreased in 2011-12, which indicates price depression; and
- sales revenue and costs in respect of galvanised steel followed similar trends until 2011-12 as costs increased above revenue, which indicates price suppression (this trend was apparent for total (figure 14 refers) and unit values (figure 15 refers)).

<u>(ii) Aluminium zinc coated steel</u>

The following graphs show movements in BlueScope's total and unit revenues (reflecting net prices less rebates and discounts) and costs in respect of aluminium zinc coated steel for 2007-08 to 2011-12.

Total revenue and costs

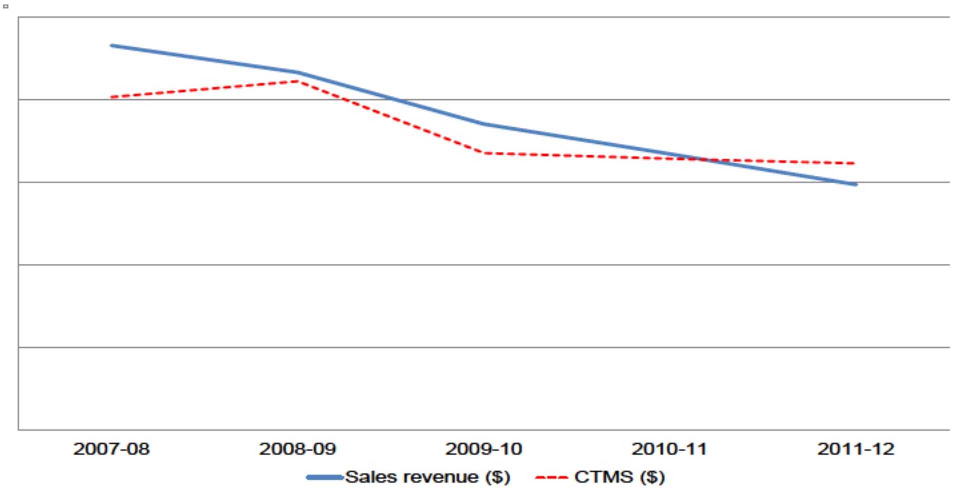


Figure 16: BlueScope's total sales revenue and costs – aluminium zinc coated steel – 2007-08 to 2011-12

Unit revenue and costs (AUD ($) per tonne)

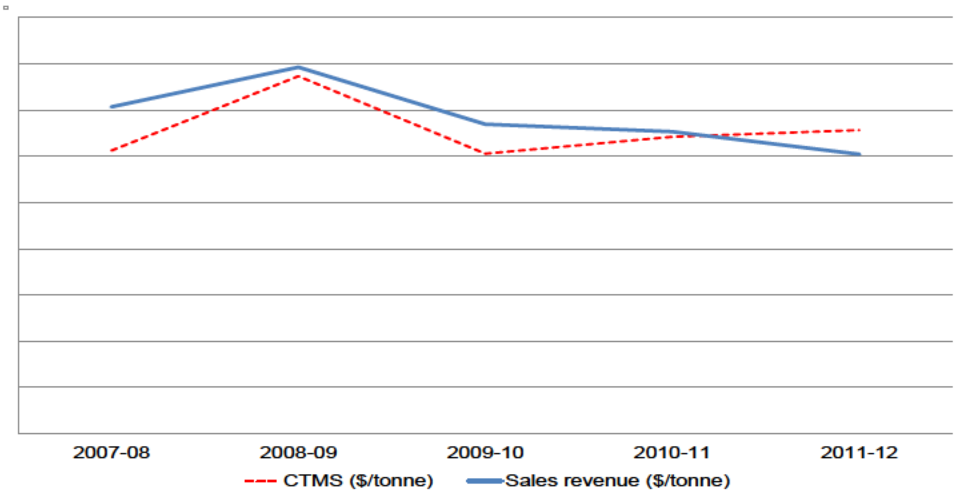


Figure 17: BlueScope's unit sales revenue and costs – aluminium zinc coated steel – 2007-08 to 2011-12

The graphs show:

- total sales revenue decreased continually since 2007-08 and unit sales revenue decreased in 2011-12, which indicates price depression; and
- sales revenue and costs in respect of aluminium zinc coated steel followed similar trends until 2009-10 and during 2011-12 costs increased above revenue, which indicates price suppression (this trend was apparent for total (figure 16 refers) and unit values (figure 17 refers)).

10.8 Profit effects

(i) Galvanised steel

The following graph shows movements in BlueScope's total profit and profitability in respect of galvanised steel for 2007-08 to 2011-12.

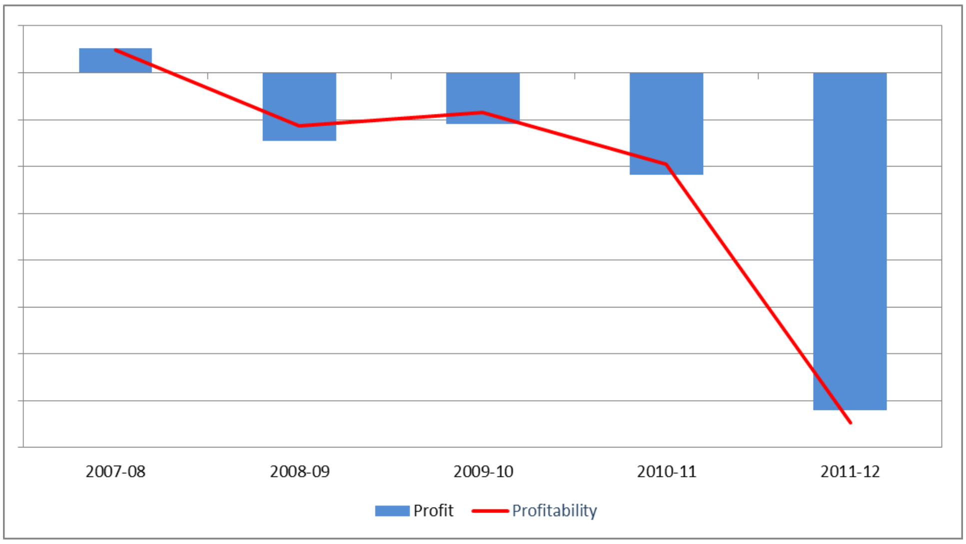


Figure 18: BlueScope's profit and profitability – galvanised steel – 2007-08 to 2011-12

This graph shows a significant decrease in BlueScope's total profit and profitability in respect of galvanised steel since 2009-10, with an exponential decrease occurring in 2011-12.

(ii) Aluminium zinc coated steel

The following graph shows movements in BlueScope's total profit and profitability in respect of aluminium zinc coated steel for 2007-08 to 2011-12.

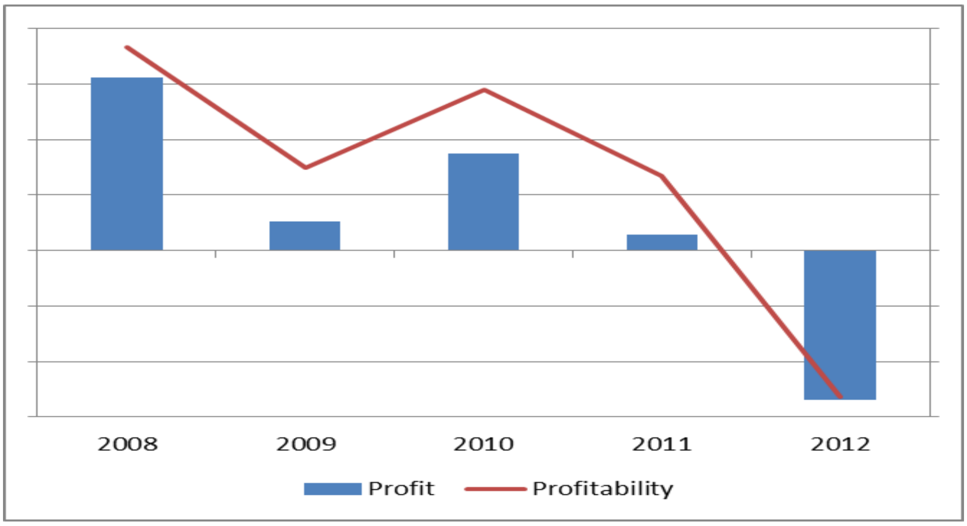


Figure 19: BlueScope's total profit and profitability – aluminium zinc coated steel – 2007-08 to 2011-12

This graph shows a significant decrease in BlueScope's total profit and profitability in respect of galvanised steel since 2009-10, with an exponential decrease occurring in 2011-12.

10.9 Summary of major injury indicators

Based on the analysis detailed above, there are reasonable grounds to support the claim that BlueScope has experienced injury (in respect of the major indicators) from 2010-11 to 2011-12 in the form of:

(i) Galvanised steel

- loss of sales volume;
- reduced market share;
- reduced sales revenues;
- price depression;
- price suppression;
- reduced profit and profitability;

(ii) Aluminium zinc coated steel

- loss of sales volume;
- reduced sales revenues;
- price depression;
- price suppression; and
- reduced profit and profitability.

10.10 Other injury factors

10.10.1 BlueScope's claims

BlueScope completed a Confidential Appendix A7 for galvanised steel and aluminium zinc coated steel for the period 2008-09 to 2011-12. BlueScope claims that it has experienced injury in respect of other economic / injury factors (Section 4.1 refers). ACBPS has reviewed respective Confidential Appendix A7's and identified the following trends for other injury factors[37], in respect of domestic sales of both galvanised steel and aluminium zinc coated steel (i.e. like goods).

10.10.2 Assets

(i) Both products

ACBPS identified a downward trend in the value of assets used in the production of galvanised steel and aluminium zinc coated steel from 2008-09.

[37] Where similar trends regarding other injury factors have been identified for both galvanized steel and aluminium zinc coated steel ACBPS has not repeated the findings under separate headings for each product.

10.10.3 Capital investment

(i) Both products

ACBPS identified varying trends for capital investment in the production of galvanised steel and aluminium zinc coated steel, however capital investment decreased in 2011-12 for both products.

Excluding the data provided in Confidential Appendix A7 no other information was provided to support BlueScope's claim regarding reduced ability to attract capital re-investment in respect of galvanised steel or aluminium zinc coated steel.

10.10.4 Research and development expenditure

(i) Both products

Research and development expenditure (R&D) in respect of galvanised steel and aluminium zinc coated steel decreased in 2011-12.

10.10.5 Return on Investment (return on assets employed)

(i) Galvanised steel

Return on investment (ROI) in relation to galvanised steel decreased exponentially from 2008-09 to 2011-12. The downward trend shown for ROI was the most prevalent other injury factor in Confidential Appendix A7. The most significant decrease in ROI occurred in 2011-12, which would have been impacted on BlueScope's restructure and closure of production facilities (at Western Port), including metal coating lines. BlueScope also notes that the ROI results in 2008-09 are impacted by significant capital expenditure in relation to its Port Kembla steel works.

(ii) Aluminium zinc coated steel

ROI in relation to aluminium zinc coated steel reduced substantially from 2008-09 to 2011-12 (although to a much less significant degree than compared to the ROI for galvanised steel). This would also have been impacted by the closure of one of BlueScope's two aluminium zinc coating lines in 2011. BlueScope noted that the ROI results in 2008-09 are impacted by significant capital expenditure in relation to its Port Kembla steel works.

10.10.6 Revenue

(i) Galvanised steel

Revenue from domestic sales of galvanised steel continually decreased from 2008-09 to 2011-12, with significant decreases occurring in 2011-12.

(ii) Aluminium zinc coated steel

ACBPS identified (when reconciling application appendices) that revenue amounts shown in Confidential Appendix A7 for aluminium zinc coated steel also included products with widths of less than 600mm, which are not the subject of the application. Therefore ACBPS cannot accurately assess revenue trends shown in Confidential Appendix A7. Notwithstanding this issue, ACBPS referred to Confidential Appendices A3 and A6 to identify trends for net sales revenues for aluminium zinc coated steel. As discussed at Section 10.7.1 sales revenue for aluminium zinc coated steel decreased continually from 2007-08 to 2011-12.

10.10.7 Capacity

(i) Both products

Capacity for the production of galvanised steel and aluminium zinc coated steel decreased in 2011-12, which would have been impacted by BlueScope's restructure and closure of production facilities (at Westport), including metal coating lines.

10.10.8 Capacity utilisation

(i) Both products

Capacity utilisation for galvanised steel and aluminium zinc coated steel decreased in 2011-12.

10.10.9 Employment

(i) Galvanised steel

Employment (measured in number of persons) relating to galvanised steel production decreased in 2011-12, which would have been impacted by BlueScope's restructure and closure of production facilities (at Westport), including metal coating lines.

(ii) Aluminium zinc coated steel

Employment (measured in number of persons) relating to aluminium zinc coated steel production decreased continually from 2008-09 to 2011-12. The reduction to employee levels in 2011-12 was significant. This would also have been impacted by the closure of one of BlueScope's two aluminium zinc coating lines in 2011.

10.10.10 Productivity

(i) Galvanised steel

Productivity (measured in tonnes per person) in respect of galvanised steel decreased in 2011-12.

(ii) Aluminium zinc coated steel

Productivity (measured in tonnes per person) in respect of aluminium zinc coated steel increased continually from 2008-09 to 2011-12.

10.10.11 Stocks

(i) Galvanised steel

Stock (inventory) levels of galvanised steel decreased in 2011-12.

(ii) Aluminium zinc coated steel

Stock (inventory) levels of aluminium zinc coated steel decreased significantly in 2011-12 (BlueScope stated that this predominately reflects reduced production).

10.10.12 Wages

(i) Galvanised steel

Wages related to the production of galvanised steel decreased in 2011-12. The average wage for the production of galvanised steel increased in 2011-12.

(ii) Aluminium zinc coated steel

Wages related to the production of aluminium zinc coated steel significantly decreased from 2010-11 to 2011-12, which BlueScope state reflects the significant reduction in employee numbers. The average wage for the production of aluminium zinc coated steel increased in 2011-12.

10.11 ACBPS's assessment – other economic / injury factors (including revenue effects)

Based on the information contained in the applications there are reasonable grounds to support the claim that BlueScope have experienced injury in the form of:

(i) Galvanised steel

- reduced revenues;
- reduced ROI;
- reduced production capacity; and
- reduced employment.

However it is also evident the closure of BlueScope's metal coating line would have also impacted on the 2011-12 trends for other injury factors.

(ii) Aluminium zinc coated steel

- reduced revenues;
- reduced ROI;
- reduced production capacity; and
- reduced employment.

11 HAVE SUBSIDISED EXPORTS CAUSED MATERIAL INJURY?

11.1 Findings

ACBPS determined that certain galvanised steel and aluminium zinc coated steel exported to Australia from China, Korea and Taiwan at dumped prices and exports from China at subsidised prices have caused material injury to the Australian industry producing like goods. ACBPS has further investigated, analysed and assessed causation factors identified in REP 190 and also in this report and found that BlueScope has suffered injury in the form of:

- lost sales volume
- price suppression;
- price depression;
- reduced revenue;
- reduced profits and profitability; and
- loss of market share (galvanised steel only)

11.2 Approach to assessing material injury[38]

In the case of concurrent dumping and subsidisation, where it is established that the exported goods are both dumped and subsidised, there is no need to quantify separately how much of the injury being suffered is the result of dumping or subsidisation. ACBPS has examined whether the exports of galvanised steel and aluminium zinc coated steel to Australia, at dumped and subsidised[39] prices, have caused material injury to the Australian industry producing like goods.

In this case, for China, the substitution of benchmark HRC costs in constructed normal values, and the use of benchmark HRC, coke and coking coal costs for subsidy Programs 1, 2 and 3 (see Appendices 2, 3 and 4), leads to an assessment of dumping margins and subsidy margins that may contain some element of overlap, or double-count. To the extent that this exists, in varying degrees for each exporter, or group of exporters, ACBPS has ensured that any such overlap or double count has been removed before taking account of the size of the dumping margin[40] and the particulars of the countervailable subsidy[41] when assessing whether dumping and subsidisation has caused material injury.

Further discussion of the removal of any overlap or double-count of dumping and subsidisation, in the context of the recommended measures, is contained in Chapter 13 of this report.

[38] ACBPS continues to clarify that galvanised steel and aluminium zinc coated steel have been considered separately across all stages of the investigations. Injury analysis has been separately performed for galvanised steel and separately for aluminium zinc coated steel. Any reference to 'whole product group' or similar is a reference exclusively to either aluminium zinc coated steel or to galvanised steel as applicable.

[39] In the case of galvanised steel and aluminium zinc coated steel exported to Australia from China.

[40] S. 269TAE(1)(aa)

[41] S. 269TAE(1)(ab)

Section 269TAE(2C) of the Act sets out the requirements for assessing the cumulative material injury effects of exports of goods to Australia from different countries. Where exports from more than one country are simultaneously the subject of anti-dumping investigations, the Minister may cumulatively assess the effects of such imports if:

- the margin of dumping established for each country is not negligible; and
- the volume of imports from each country is not negligible; and
- cumulative assessment is appropriate in light of the conditions of competition between the imported goods and the like domestic goods.

ACBPS has assessed material injury at macro and micro level and considered cumulatively the injurious effects of dumping and subsidisation from China, and dumping from Korea and Taiwan. ACBPS considers that Australian aluminium zinc coated steel and galvanised steel is like to the goods (including having similar end-uses and competing in some of the same markets). The conditions of competition are such that it is appropriate to consider the cumulative injurious effect of the dumped and subsidised imports from China and the dumped imports from Korea and Taiwan to the Australian industry.

11.2.1 Macro analysis

In assessing whether material injury has been caused by dumping and subsidisation, ACBPS has conducted macro-analysis examining imports, market share, prices and industry performance across the Australian industry. In conducting this assessment, price undercutting has been assessed by comparing the price of imported and locally produced aluminium zinc coated steel and galvanised steel on the basis of pricing for the total class of the goods (either aluminium zinc coated steel and galvanised steel) and pricing by product categories. ACBPS has also considered in its macro-analysis the effects of non-dumped and/or subsidised imports, or imports from countries outside of the scope of the investigation.

11.2.2 Micro analysis

Due to complexities in the market, including the range of products and different market sectors, ACBPS has also conducted a micro analysis. Micro analysis examines the injury and effects of dumping and subsidisation at a model-specific product level and within particular market sectors. Where possible, price undercutting has been undertaken by comparing the price of imported and locally produced aluminium zinc coated steel and galvanised steel by direct comparison of particular locally produced and imported models or grades and by market segment for major markets where that information is available.

11.3 Causation factors

11.3.1 Sales volume

(i) Galvanised steel

BlueScope's claims[42]

BlueScope claimed that the Australian market for galvanised steel expanded in 2009-10 and that BlueScope's sales increased following the 2008-09 global financial crisis. BlueScope claimed that imports from China, Korea and Taiwan also increased, but by a lesser amount. During 2010-11, the market experienced a contraction. BlueScope's sales volumes fell, but imports from China, Korea and Taiwan continued to increase. In 2011-12 BlueScope's sales volume continued to decrease while imports from China and Korea increased. BlueScope claimed that imports from Taiwan in 2011-12 were at similar levels to earlier years. Imports of galvanised steel from all other source countries increased in 2011-12.

BlueScope claimed that the increase in imports from China, Korea and Taiwan in successive years since 2008-09 contributed to BlueScope's loss of market share in 2010-11 and 2011-12.

BlueScope claimed that dumped and subsidised imports from China and dumped imports from Korea and Taiwan have been the major cause of lost sales by BlueScope in 2011-12.

ACBPS's assessment

ACBPS's analysis shows that it is likely that the significant increase in the individual and cumulative volume of imports of galvanised steel from China, Korea and Taiwan in 2009-10 contributed to BlueScope's reduced sales volume in 2010-11 and 2011-12. ACBPS identified that the most significant increase in the aggregated import volume for the nominated countries since 2009-10 occurred in 2011-12. ACBPS also considers that BlueScope's reduced sales volumes (due to imports of the goods) resulted in reducing BlueScope's market share, during a period where the overall size of the Australian market increased.

In Chapter 10 ACBPS found that BlueScope's domestic sales volumes of galvanised steel continually decreased from 2009-10.

The analysis in Chapter 10 shows that BlueScope's market share in the Australian market for galvanised steel continually decreased from 2009-10, reflecting BlueScope's trends for sales volumes. During this period, the market share of total imports from China, Korea and Taiwan increased. There has been variation in market shares held by each of the nominated countries, with the largest market share represented by imports from China.

ACBPS considers that in 2011-12 in order to maintain market share in a declining market, BlueScope's reduced its selling prices of galvanised steel, which is

[42] BlueScope's claims may vary from ACBPS's injury findings in this report (Section 10 refers).

supported by the assessment of price depression.

(ii) Aluminium zinc coated steel

BlueScope's claims[43]

BlueScope claimed that the Australian market for aluminium zinc coated steel expanded in 2009-10 as imports of aluminium zinc coated steel from China, Korea and Taiwan increased by approximately 50% compared to 2008-09.

BlueScope claimed that in 2010-11, imports from China continued to increase, with imports from Korea and Taiwan decreasing. It claims that imports from China and Taiwan continued to increase in 2011-12, with imports from Taiwan in 2011-12 remaining relatively constant (when compared to the preceding year).

BlueScope claimed that imports of aluminium zinc coated steel from all other countries have decreased on an annual basis since 2008/09 and hold a relatively minor share of total imports into Australia (at approximately 5%).

BlueScope claimed that the increase in import volume from China, Korea and Taiwan in 2009-10 is considered to have been the catalyst for its subsequent reduction in sales volumes in 2010-11, continuing again in 2011-12.

11.4 Price effects

11.4.1 Import Parity Pricing (IPP)

BlueScope submitted that its pricing strategy for both galvanised steel and aluminium zinc coated steel is based on import parity pricing (IPP) and therefore the price of imports is a key determinant of its selling price. IPP takes into consideration the market price of the goods using contemporary price information for equivalent imported products. BlueScope uses prices gathered from the import market (including from the countries the subject of the application) to determine the selling price of its goods, with the view to selling at prices considered competitive with imports. BlueScope explained that it has been using IPP for close to a decade to price its galvanised steel coated products and has more recently introduced IPP for aluminium zinc coated products.

BlueScope submitted that the price of imported aluminium zinc coated steel was generally released into the market three months prior to the date of importation of the goods. BlueScope gathers information regarding the current market price offers (for goods from all sources) through market intelligence. BlueScope subsequently consolidates these offers (including offers for galvanised steel from China, Korea and Taiwan) and determines a benchmark IPP for particular models at FIS level. BlueScope bases its price on the benchmark with a premium.

BlueScope submitted that it does not always benchmark to the lowest offered import price, but that this was a factor taken into consideration. BlueScope stated that factors other than import prices are taken into consideration when determining price

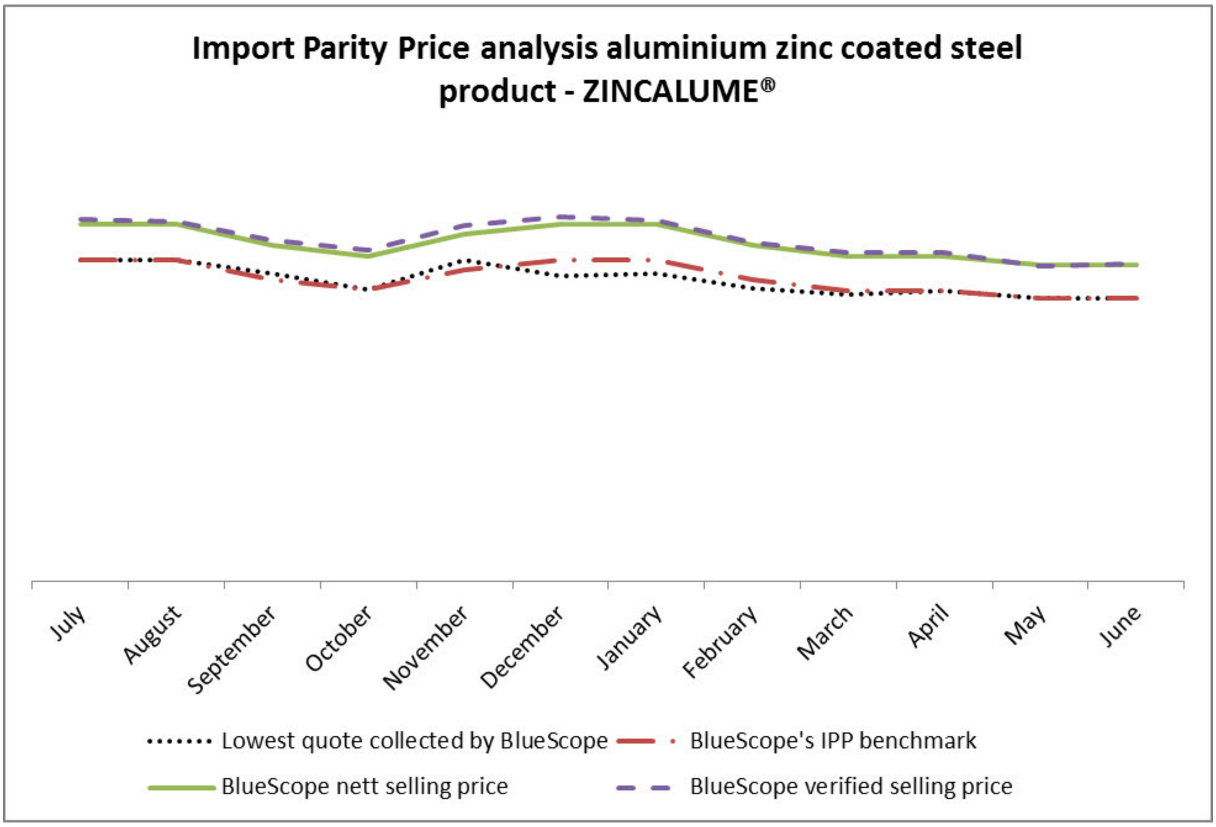
[43] BlueScope's claims may vary from ACBPS's injury findings in this report (Section 10 refers).

(i.e. manufacturing costs and margins), however maintaining market share and volume is the key determinant (to cover fixed costs at a minimum). BlueScope submitted that in order to maintain domestic volumes it has been required to match import prices of the dumped aluminium zinc coated steel and galvanised steel, through its IPP and that this directly caused price injury resulting in reduced revenues and profits.

BlueScope provided ACBPS with its IPP data for the investigation period for aluminium zinc coated steel and galvanised steel for key product models, showing monthly import offers (free-into-store (FIS), AUD per tonne) from the nominated countries based on market intelligence, calculated monthly benchmark IPP, BlueScope's net prices (FIS, AUD per tonne), and premiums. To support the IPP spreadsheet BlueScope provided source documentation to validate the recorded import offers. ACBPS was satisfied that the IPP information provided by BlueScope was reflective of market prices offered by exporters from Korea, Taiwan and China and that the quotes provided were reasonably accurate.

In the charts below, BlueScope's IPP benchmark price is compared with market intelligence collected by BlueScope of export prices from China, Korea and Taiwan to Australia. The chart also compares BlueScope's claimed net selling price (that is, the selling price after rebates, commissions and other post-sale deductions) comprising the IPP benchmark price plus a premium, with actual selling prices during the investigation period for a selected model.

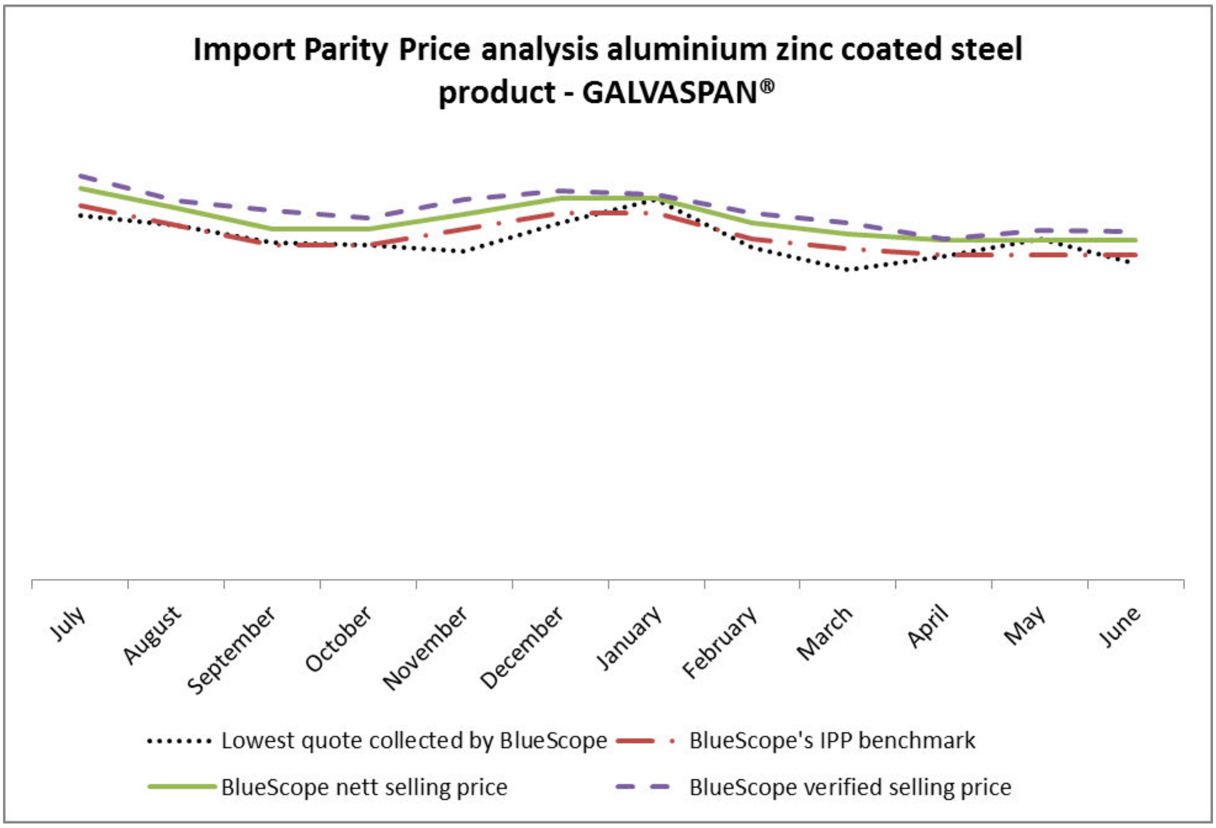
(i) Aluminium zinc coated steel product



It can be seen that for the selected aluminium zinc coated steel model, BlueScope's IPP benchmark price closely matches the lowest quoted price, while BlueScope's verified selling prices during the investigation period closely aligned with BlueScope's planned selling price (referred to here as net selling price). The same analysis was conducted over four commonly sold models of aluminium zinc coated steel and similar correlations in prices were observed.

For aluminium zinc coated steel, it was observed that across all product models for which BlueScope collected market intelligence for IPP, the highest quoted price from at least one of the countries under investigation was equal to or higher than BlueScope's verified selling prices at FIS level in AUD. This was observed between three and seven months of the investigation period for each of the four models examined. BlueScope's verified selling price was below quoted prices collected by BlueScope from the countries under investigation for between 25% and 58% of the investigation period for each of the four products. This supports BlueScope's claim that to remain competitive its pricing must be responsive to fluctuating import prices and at times undercut import prices.

(ii) Galvanised steel product



In this graph for a galvanised steel model, it can be seen that BlueScope's IPP benchmark price correlates with the lowest quoted price, while BlueScope's verified selling prices during the investigation period closely aligned with BlueScope's planned selling price (referred to here as net selling price). The same analysis was conducted over seven commonly sold models of galvanised steel. Similar correlations in prices were observed across four of the models, however the remaining three models lacked sufficient data (for example, market intelligence did not cover all months in the investigation period) to observe a firm trend.

For galvanised steel, it was observed that across all product models for which BlueScope collected market intelligence for IPP, the highest quoted price from at least one of the countries under investigation was equal to or higher than BlueScope's verified selling prices at FIS level in AUD. This was observed between three and seven months of the investigation period for each the four models examined. BlueScope's verified selling price was below quoted prices collected by BlueScope from the countries under investigation for between 25% and 42% of the investigation period for each of the four products with sufficient IPP data (the remaining three products have not been assessed).

11.4.2 Price undercutting macro level analysis

Price undercutting occurs when imported product is sold at a price below that of a like Australian manufactured product.

(i) Galvanised steel

BlueScope's claims

In their application in respect of galvanised steel, BlueScope stated that:

> *"The influence of the dumped exports of galvanised steel on BlueScope's selling prices, profit and profitability in 2010/11 and 2011/12 has been substantial[44]".*

BlueScope claimed that in 2011-12 export prices (A$/FOB per metric tonne) for galvanised steel imported from China, Korea and Taiwan were comparable (i.e. varied within 2%) and were also $300 AUD below average export prices for imports from other countries. BlueScope claimed that in order to maintain market share it responded by offering competitive landed-into-store prices for the galvanised steel compared to export prices for imports from China, Korea and Taiwan. It claimed this is evidenced by reduced selling prices.

BlueScope provided a summary of import offers (prices shown in AUD per metric tonne and free-into-store (FIS)) from each of the nominated countries, including from cooperating exporters, at prices that it claimed undercut its selling prices. Source documentation to substantiate a selected number of import sales offers was included in the summary (where available). BlueScope also provided post exportation costs and accompanying calculations for imports from the nominated countries.

BlueScope submits that in order to maintain domestic volumes it has been required to match import prices of the dumped and subsidised galvanised steel, through BlueScope's import parity pricing mechanism, where appropriate. BlueScope claimed that dumped and/or subsidised exports of galvanised steel from China, Korea and Taiwan undercut BlueScope's average selling price by 12% to 18% in

[44] Galvanised Steel Application, page 29

2011-12. BlueScope claimed that the net effect of the price undercutting from the dumped exports from China, Korea and Taiwan, is that BlueScope's selling prices are depressed, and that net selling prices (excluding rebates) have reduced by 6% compared to 2010-11 average net selling prices.

Submissions by interested parties[45]

Posco

In a submission dated 23 November 2012, Posco states that 'there is no difference between prices of imports that are allegedly dumped and those that are depressed.[46]'

Posco quotes the Appellate Body in DS184 (US - Hot Rolled Steel) supporting the statement that it is not possible to separate injury from dumped imports from injury from other factors, including imports from third countries that are comparably priced to the dumped imports.

Ace Gutters

In a submission dated 30 November 2011, Ace Gutters contend that price undercutting has not been shown to have occurred during the investigation period, and therefore no causal link may be found between dumping and injury. Ace Gutters state that because no evidence has been provided of price undercutting during the investigation period, this claim is not valid.[47]

Ace Gutters says that BlueScope has claimed that it charges a premium and also that it has an import parity price policy, which are inconsistent.

Ace Gutters do not believe BlueScope could be a price taker, rather than price setter when they are the major producer of aluminium zinc coated steel in Australia.[48]

GM Holden

In a submission dated 14 December 2012, GM Holden claim that BlueScope is 'effectively undercutting, supressing and depressing its own prices. These are business decisions on pricings rather than being driven by dumping and subsidisation.[49]'

[45] Some interested parties made submissions specifically in relation to either galvanised steel and aluminium zinc coated steel, or both. As IPP is a feature of both galvanised steel and aluminium zinc coated steel, ACBPS has collated the arguments of interested parties in this section.
[46] Posco submission, EPR190/052, page 33.
[47] Ace Gutters submission, EPR190/055, page 4.
[48] Ace Gutters submission, EPR190/055, page 9.
[49] GM Holden, submission EPR190/056, page 2.

Dongbu

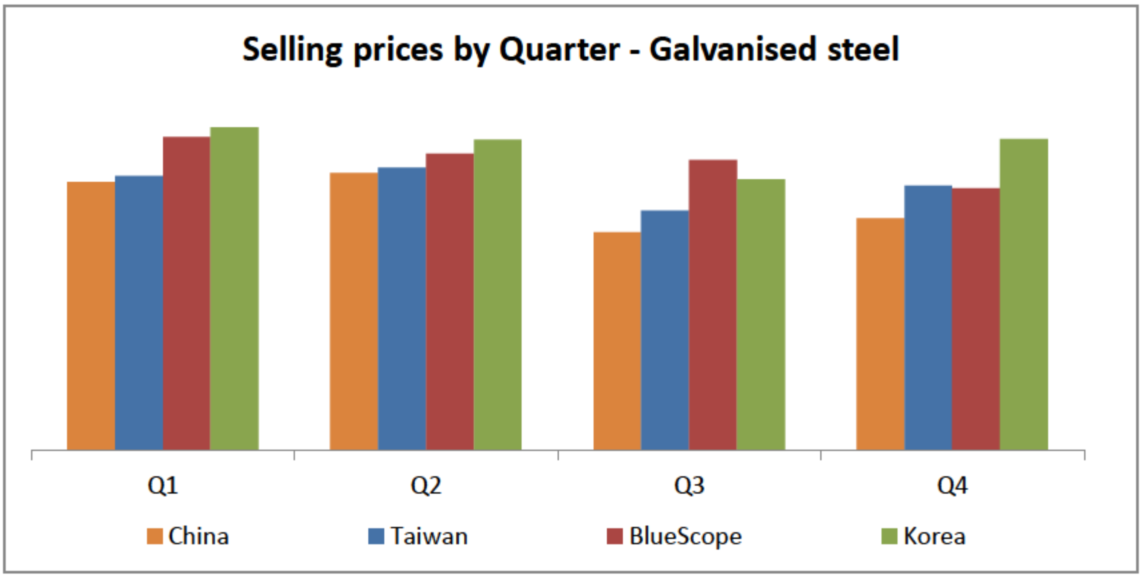
In a submission dated 21 December 2012, Dongbu claim that BlueScope has self-inflicted the low prices in the market, and that exporters should not be 'blamed' for the low prices because they are 'forced to compete' at that level by BlueScope.[50]

ACBPS's assessment

ACBPS considered BlueScope's claims of price undercutting at a macro level comparing the price of imports to Australian industry prices on an FIS basis. Analysis indicates that BlueScope's selling price during the investigation period was competitive with import prices from China, Korea and Taiwan. This is consistent with BlueScope's decision to use Import Parity Pricing (IPP) in setting prices.

ACBPS examined the selling prices of galvanised steel imports with the Australian industry's selling prices. The Australian industry selling prices were gathered from verified data from ACBPS's visit to BlueScope. Import prices were obtained from ACBPS's import data and adjusted to an FIS price using a weighted average of post-exportation costs from importer's verified data. The adjustment considered the post-exportation costs for each country under investigation separately. Data is expressed as AUD per tonne.

The following graph demonstrates that BlueScope's prices for galvanised steel are closely aligned with import prices from China, Korea and Taiwan:



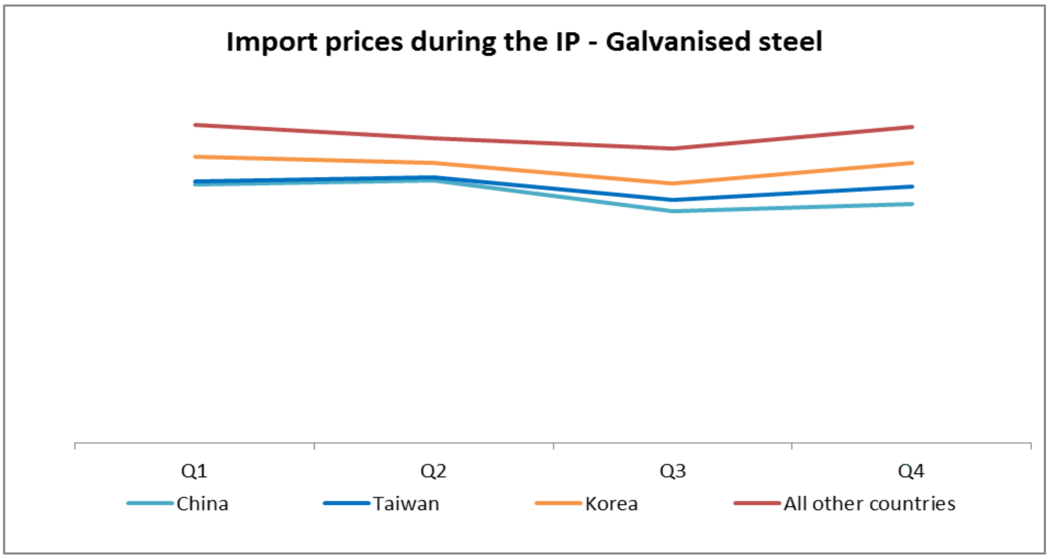
As part of macro analysis of price undercutting, ACBPS also considered the pricing of undumped and unsubsidised imports during the investigation period.

Using ACBPS's import data for the relevant tariff and statistical codes, the weighted average selling price per tonne for each quarter of the investigation period was analysed by investigated countries and all other countries. To avoid statistical anomalies related to broker error, the import data was cleansed to remove outlying

[50] Dongbu Steel submission, EPR190/062, page 5.

entries above $2000/tonne and below $600/tonne. Goods not matching the goods description were also removed from the data set.

The chart below demonstrates that import prices declared from China, Korea and Taiwan are substantially lower per tonne on average than for non-investigated countries. This indicates that the Australian industry feels most price pressure from China, Korea and Taiwan as these are lower priced than imports from other countries.



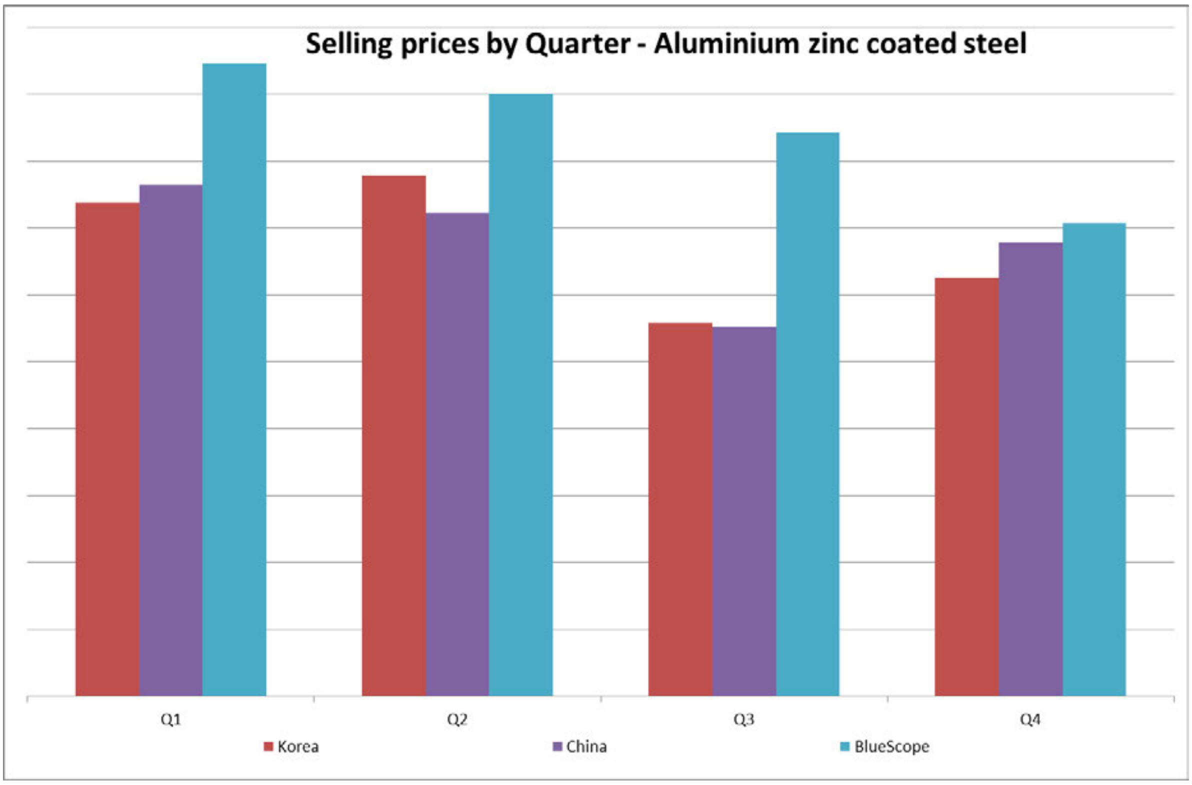
The lower import prices of China, Korea and Taiwan relative to all other countries demonstrate that greatest price pressure for BlueScope in setting IPP comes from countries selling at dumped and/or subsidised prices. This is demonstrated at a micro level for particular products and specific exporters, and also at a macro level by product group and country. This supports BlueScope's claim that dumped imports are causing injury through price depression.

(ii) Aluminium zinc coated steel

ACBPS examined the selling prices of aluminium zinc coated steel imports with the Australian industry's selling prices. Prices were obtained from ACBPS's import data and adjusted to an FIS price using a weighted average of post-exportation costs from importer's verified data. The adjustment considered the post-exportation costs for each country under investigation separately. Data is expressed as AUD per tonne.

ACBPS examined the selling prices of aluminium zinc coated steel imports with the Australian industry's selling prices. Prices were obtained from import data and adjusted to an FIS price using a weighted average of post-exportation costs from importer's verified data. The adjustment considered the post-exportation costs for each country under investigation separately. Data is expressed as AUD per tonne.

The following graph demonstrates that BlueScope's prices for aluminium zinc coated steel are, in most cases, higher than import prices from China and Korea[51], with closer alignment in pricing in the final quarter of the investigation period.



It can be seen that BlueScope's prices have decreased each quarter, with the exception of Korean Q4 export prices, BlueScope's selling price based on IPP has been undercut by all nominated countries in all quarters.

As part of the macro analysis of price undercutting, ACBPS also considered the pricing of undumped and unsubsidised imports of aluminium zinc coated steel during the investigation period.

Using import data for the relevant tariff and statistical codes, the weighted average selling price per tonne for each quarter of the investigation period was analysed by investigated countries and all other countries. To avoid statistical anomalies related to broker error, the Customs import data was cleansed to remove outlying entries above $2000/tonne and below $600/tonne. Goods not matching the goods description were also removed from the data set.

The graph below shows that the differences between imports prices of aluminium zinc coated steel from Korea and China compared to all other countries, including Taiwan, are similar for the first three quarters then diverged in the fourth quarter where prices from other countries rose above prices from Korea and China.

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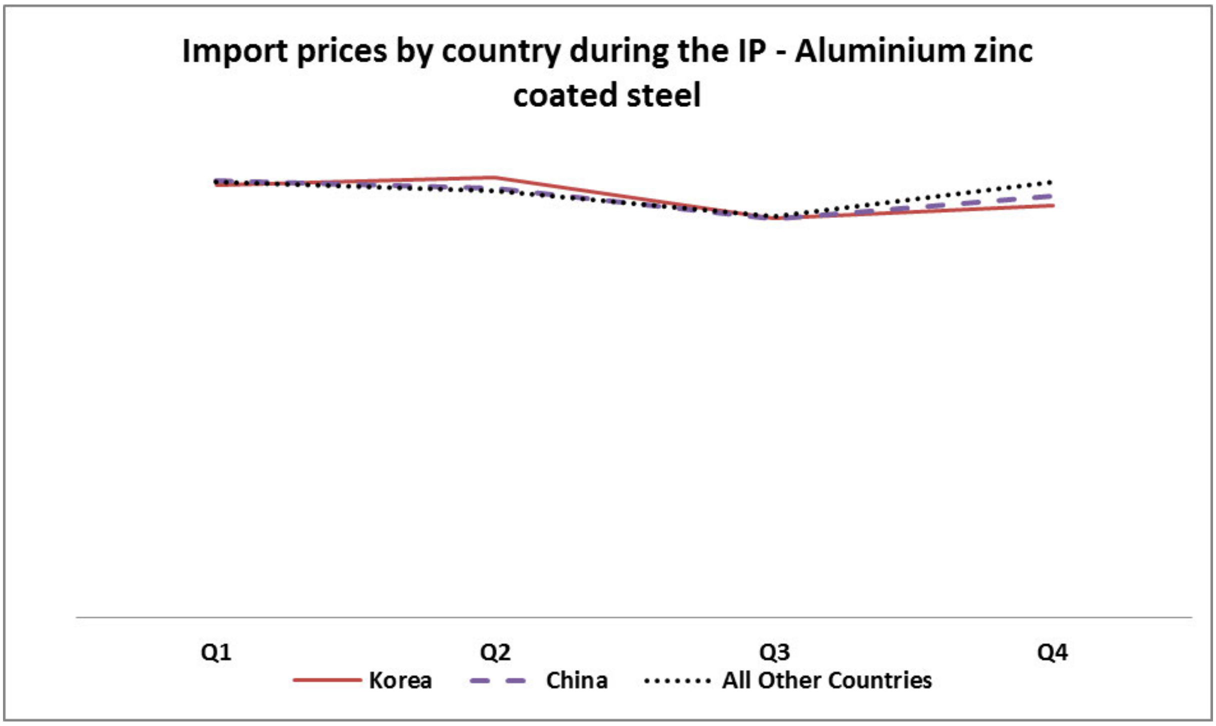
[51] The investigation into the alleged dumping of aluminium zinc coated steel exported from Taiwan was terminated on 30 April 2013.



Analysis at product level and overall highlighted that BlueScope's net selling prices followed the trends of the IPP benchmark over the investigation period, indicating a closer correlation and relationship between dumped and subsidised import prices and BlueScope's prices, compared to the relationship between undumped and unsubsidised imports and BlueScope's prices. This supports BlueScope's claim that to remain competitive its pricing must be responsive to fluctuating import prices and at times undercut import prices.

This assessment is indicative that BlueScope has experienced price depression (by reducing selling prices) in order to compete with dumped and/or subsidised imports at competitive prices.

11.4.3 Price depression, price suppression and profit impacts

(i) <u>Galvanised steel</u>

<u>BlueScope's claims</u>

BlueScope claimed that the CTMS for galvanised steel in 2011-12 increased by approximately 10%, but average selling prices for galvanised steel decreased by 6%. BlueScope claimed that it was unable to pass on cost increases for goods sold to the Australian customers. As a result, it has experienced material injury from imports of galvanised steel at dumped prices. BlueScope claimed that the erosion of BlueScope's margin during 2011-12 contributed to a significant decline in profit for the galvanised steel business.

<u>ACBPS's assessment</u>

Chapter 10 showed a significant decrease in BlueScope's profit and profitability in respect of galvanised steel from 2009-10, with an exponential decrease occurring in 2011-12. ACBPS considers that dumped and subsidised imports have impacted on

BlueScope's profit and profitability. This assessment is supported by the finding that BlueScope experienced price depression and suppression in respect of galvanised steel in 2011-12 combined with the analysis above that demonstrates BlueScope followed dumped and subsidised import prices in setting its prices.

(ii) Aluminium zinc coated steel

BlueScope's claims

BlueScope claimed that the CTMS for aluminium zinc coated steel increased by approximately 11% in 2011-12 compared to 2010-11, while average net selling price for aluminium zinc coated steel decreased by approximately 7.5%. BlueScope claims it is unable to pass on production cost increases by increasing prices for goods sold to Australian customers. As a result, it has experienced material injury from imports of aluminium zinc coated steel at dumped prices. BlueScope claimed that the erosion of BlueScope's margin during 2011-12 contributed to a significant decline in profit for the aluminium zinc coated steel business.

ACBPS's assessment

Chapter 10 shows a significant decrease in BlueScope's profit and profitability in respect of aluminium zinc coated steel since 2009-10, with an exponential decrease occurring in 2011-12. ACBPS considers that dumped and subsidised imports have impacted on BlueScope's profit and profitability. This assessment is supported by the findings that BlueScope experienced price depression and suppression in respect of aluminium zinc coated steel in 2011-12 combined with the analysis above that demonstrates BlueScope followed dumped and subsidised import prices in setting its prices.

11.5 Summary of major injury indicators

Based on the analysis detailed above, there are reasonable grounds to support the claim that dumping and subsidisation has caused injury to BlueScope in the form of:

(i) Galvanised steel

- loss of sales volume;
- reduced market share;
- reduced sales revenues;
- price depression;
- price suppression; and
- reduced profit and profitability.

(ii) Aluminium zinc coated steel

- loss of sales volume;
- reduced sales revenues;

- price depression;
- price suppression; and
- reduced profit and profitability.

11.6 Other injury factors

In chapter 10 ACBPS found that there are reasonable grounds to support the claim that BlueScope have experienced injury from other injury factors in the form of:

(i) Galvanised steel

- reduced revenues;
- reduced ROI;
- reduced production capacity; and
- reduced employment.

(ii) Aluminium zinc coated steel

- reduced revenues;
- reduced ROI;
- reduced production capacity; and
- reduced employment.

ACBPS considers that it is inconclusive whether the other injury factors found above were caused by dumping and subsidisation, or caused by other factors such as the restructure of BlueScope's coating facilities. It is likely that at least both were contributing factors to the injury experienced by BlueScope.

11.7 Injury caused by factors other than dumping and subsidisation

BlueScope's claims

During ACBPS's verification visit, BlueScope noted that the coated steel markets have not recovered to their position prior to the global financial crisis and building activity is still suppressed. It also noted that the strength of the Australian dollar has some impact on the attractiveness of import offers. However, despite these observations, BlueScope claimed that neither of these factors displaces the impact of having to compete with dumped and subsidised import prices. Given its import parity pricing policy dumped and subsidised import prices have a direct and identifiable impact on BlueScope's prices.[52]

[52] For further information, refer to BlueScope verification report, EPR190/035, page 43.

Submissions by interested parties[53]

- *GM Holden*

In a submission dated 15 October 2012, GM Holden claim that the following other injury factors are relevant:

- decrease in demand for automotive vehicles;
- post GFC restructure of BlueScope;
- appreciation of the Australian dollar;
- closure of BlueScope's Westernport plant;
- loss of export markets by BlueScope;
- increased prices for raw materials;
- decrease in general demand for Galvanised Steel; and
- increase in price for raw materials such as electricity and coking coal.

In a second submission dated 14 December 2012, GM Holden claim that BlueScope's own business decisions in setting its pricing has caused it injury. GM Holden also state that the automotive industry is depressed and that automotive industry purchasing is mainly by long term contract.

A third submission on behalf of GM Holden, dated 15 January 2013, states that '*the GFC, the factors set out in section 4.7.2(ii) of the consideration report, decrease in demand for the end product using the Galvanised steel, appreciation of the Australian dollar, increase in price for electricity and raw material prices, increases in iron ore and coal coking prices and a general reduction in demand for the entire steel industry*[54]' have caused injury to BlueScope.

- *Australian Steel Association (ASA)*

The ASA, in a submission dated 18 October 2012, claim that injury is caused by prevailing market conditions, the 'ebb and flow of business' and not by dumping.

- *Chinese Iron and Steel Association (CISA)*

The CISA , in a submission dated 1 November 2012, allege that BlueScope 'shifts profit downstream' into its distribution businesses. The CISA believe that 'allegations of injury [do] not reflect the true financial position of the Applicant[55].'

In a second submission dated 17 December 2012, the CISA attribute BlueScope's injury to the restructure of BlueScope's business and to the global financial crisis.[56]

A third submission on behalf of the CISA, dated 15 January 2013, states that there is no causal link between dumping and injury, instead this injury is caused by the global financial crisis and BlueScope's business restructure.[57]

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[53] In the interests of brevity, not all submissions by all parties are addressed in this SEF. However, ACBPS has considered all submissions by interested parties and has taken into account the views put forward in those submissions.
[54] GM Holden, 15/1/13, page 12.
[55] CISA submission, EPR190/XX, page 8.
[56] CISA, 17/12/12, page 5.

- *POSCO*

In a submission dated 23 November 2012, POSCO state that injury has been caused to BlueScope by BlueScope's decision to restructure, in particular BlueScope's decision to scale down export activities and mothball its Westernport hot strip mill and no. 5 coating line.

POSCO stated in that submission that 'The Complainant is operating in markets in which demand is contracting, and in which prices are depressed. It recently closed down one of its major production facilities, which has caused its costs to rise. These factors are the cause of injuries claimed by the Complainant. They would have occurred in the absence of the subject imports.[58]'

- *Ace Gutters*

In a submission dated 30 November 2012, Ace Gutters claim that injury has been caused to BlueScope as a result of market decline and 'the ebb and flow of business.[59]' Ace Gutters also attribute injury to the global financial crisis.[60]

- *Dongbu Steel*

In a submission dated 21 December 2012, Dongbu Steel state that BlueScope's non-supply of unpainted product to some businesses is causing it injury, as it could sell to those customers but does not.

Dongbu Steel also claim that BlueScope is the price setter in the market, and that exporters are simply lowering their prices because they are 'forced to compete' with BlueScope's pricing.[61]

11.7.1 ACBPS' assessment

(i) Both products

Economic environment

ACBPS considers that the economic slow-down evident in the investigation period may have affected BlueScope's performance to a certain degree. However, in 2011-12, the individual cumulative market volumes held by imports of galvanised steel from the nominated countries increased. ACBPS also identified that the aggregate import volumes of aluminium zinc coated steel from the nominated countries is increasing, which is driven by increased import volumes from Korea. ACBPS considers that dumped and subsidised imports have impacted on BlueScope's performance in respect of galvanised steel and aluminium zinc coated steel.

Appreciation of Australian dollar (AUD)

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[57] CISA, 15/01/13 page 5.

[58] POSCO submission dated 23/11/12, EPR190/XX, page 30.
[59] Ace Gutters submission dated 23/11/12, EPR190/055, page 4.
[60] Ace Gutters submission dated 23/11/12, EPR190/055, page 5.
[61] Dongbu 21/12/12, page 6.

ACBPS recognises that the strong AUD will have impacted on the prices of imports, making them more price-competitive. However, as dumping and subsidy margins have been identified, it is likely that dumped and subsidised imports have negatively affected BlueScope's performance in respect of both galvanised steel and aluminium zinc coated steel.

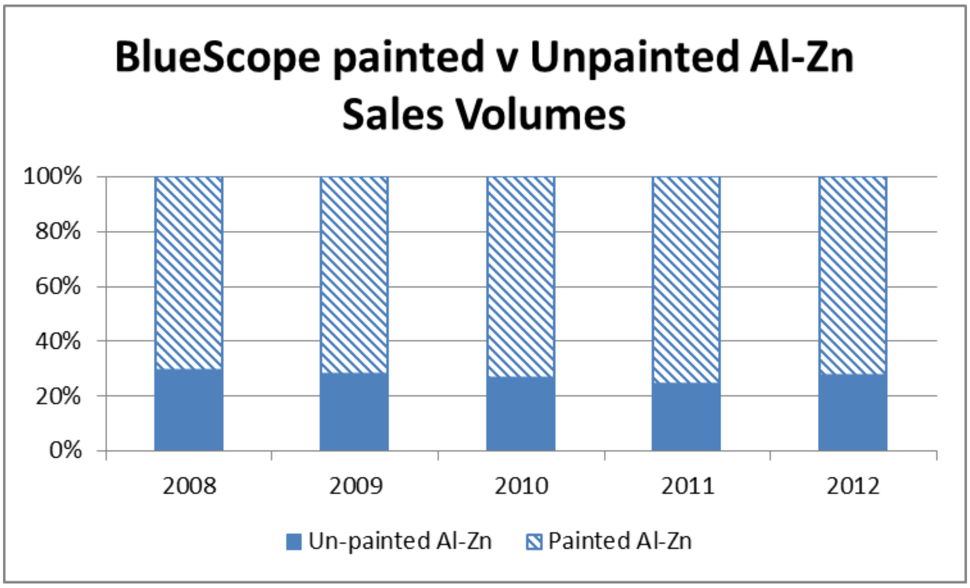
Restructure

As noted previously, BlueScope had a major restructure in the September quarter of 2011. ACBPS considers that this potentially had an effect on its performance in 2011-12, including in respect of galvanised steel and aluminium zinc coated steel. However, it notes that costs associated with this restructure have been identified and excluded from the injury analysis (for both products).

Diversion to other products

BlueScope's production lines that produce aluminium zinc coated steel also produce the feedstock for BlueScope's painted products such as COLOURBOND®. ACBPS has examined whether any injury in the form of lost volume or price depression has been exaggerated by a strategy to divert production and / or profits to BlueScope's painted products.

The following graph shows the ratio of BlueScope's aluminium zinc coated steel painted to unpainted line sales volumes. The graph shows that the volume of unpainted aluminium zinc coated steel has remained relatively constant after a slight drop in 2009 whilst the volume of painted aluminium zinc coated steel reduced in line with the overall volume decrease in the 2012 financial year. This graph shows that there has been no significant shift from one particular line of aluminium zinc coated production to the other over the investigation period. In 2012 there is a higher proportion of unpainted product to painted product to the previous year. Therefore ACBPS does not consider this to be a causation factor in BlueScope's loss of sales volume.



Imports not causing injury to BlueScope

Chapter 7 set out a number of claims for exemption by various interested parties for goods that BlueScope does not make. ACBPS indicated in that chapter that, following consideration of these claims, it recommends the Minister exempt certain goods from anti-dumping measures. The dumping and subsidisation of imported goods covered by any exemption based on BlueScope's inability to supply could not be said to have caused injury to BlueScope during the investigation period.

Based on verified data obtained from exporters and importers, and information from ACBPS's import database, it is estimated that goods covered by any proposed exemptions represented approximately 6% of total dumped and/or subsidised imports during the investigation period. The goods not covered by any proposed exemption, and which therefore caused injury to BlueScope still represent a significant proportion of exports covered by the investigation.

Conclusion – other causation factors

ACBPS considers that the current economic slow-down may be affecting BlueScope's performance to a certain degree. However, it notes that in 2011-12, the individual cumulative market volumes held by imports of galvanised steel from the nominated countries increased. The aggregate import volumes of aluminium zinc coated steel from the nominated countries increased, which is driven by increased import volumes from Korea. Custom and Border Protection considers that dumped and subsidised imports have impacted on BlueScope's performance in respect of galvanised steel and aluminium zinc coated steel.

There is robust evidence to show that BlueScope sets its prices according to import parity pricing. Therefore while steel prices have been depressed globally, the presence of dumped and subsidised imports in the market has further suppressed BlueScope's prices so that it is unable to increase its prices to the extent it would have if competing with un-dumped and un-subsidised prices. This has particularly impacted BlueScope due to increased raw material prices globally.

This, combined with the evidence presented in relation to BlueScope's IPP strategy, leads ACBPS to conclude that dumping and subsidisation, in and of itself, has caused injury to BlueScope.

ACBPS recognises that the strong AUD will have impacted on the prices of imports, making them more price-competitive. However, given the dumping margins calculated, dumped imports have negatively affected BlueScope's performance in respect of both galvanised steel and aluminium zinc coated steel.

As noted previously, BlueScope had a major restructure in the September quarter of 2011. ACBPS considers that this potentially may have had an effect on its performance in 2011-12, including in respect of galvanised steel and aluminium zinc coated steel. However, it notes that costs associated with this restructure have been identified and excluded from the injury analysis (for both products).

11.8 Conclusion on whether dumped and subsidised imports caused material injury to the Australian industry

(i) <u>Galvanised steel</u>

ACBPS is satisfied that, based on the information submitted in the application and verified data collection in respect of galvanised steel, BlueScope has demonstrated that it has suffered injury in respect of galvanised steel and that there are reasonable grounds for concluding that the dumping and/or subsidisation of galvanised steel exported to Australia from China, Korea and Taiwan has caused material injury to the Australian industry producing like goods.

(ii) Aluminium zinc coated steel

ACBPS is satisfied that, based on the information submitted in the application and verified data collection in respect of aluminium zinc coated steel, BlueScope has demonstrated that it has suffered injury in respect of aluminium zinc coated steel and that there are reasonable grounds for concluding that the dumping and/or subsidisation of aluminium zinc coated steel exported to Australia from China and Korea has caused material injury to the Australian industry producing like goods.

11.8.1 Submissions to SEF193 and ACBPS's assessment

One submission was received from GM Holden Limited. This submission included most of the issues that GM Holden submitted during the course of the investigations (including INV 190a and INV 190b). The ACBPS considered and addressed all those issues as detailed in sections 11.7 and 11.7.1 above. The following additional issues were submitted by GM Holden in response to SEF 193:

(i) GM Holden submitted that unlike the HRC investigation, this investigation does not analyse material injury to specifically address the automotive sector. Holden is of the view that the applicant suffers no injury in its sales to the automotive sector arising from any alleged subsidisation of galvanised steel and aluminium zinc coated steel products;

(ii) SEF 193 does not specifically take into account the significant adverse effect of the imposition of countervailing or dumping measures on exports of galvanised steel to the automotive sector; and

(iii) delay in issuance of the "Ministerial Direction" by the Federal Government to ACBPS to provide the Minister with the consideration of the expected effect of the proposed measures on market concentration and the assessment of the impact on the downstream industries when the Minister exercises his discretion to impose anti-dumping measures.

While ACBPS has not conducted separate material injury analysis for the automotive industry, ACPBS has recommended the Minister exempt certain galvanised steel products predominantly used by the automotive manufacturers as detailed in section 7 of this report.

In relation to the Minister's discretion, ACBPS has incorporated a summary of the views of downstream industry members and other interested parties in Chapter 13 of this report.

12 NON INJURIOUS PRICE

12.1 Findings

ACBPS found that the non-injurious price (NIP) can be set by reference to an un-dumped and un-subsidised import price.

12.2 Introduction

Dumping and/or countervailing duties may be applied where it is established that dumped and /or subsidised imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping or countervailing duty imposed by the Minister cannot exceed the margin of dumping or subsidisation, but a lesser duty may be applied if it is sufficient to remove the injury. This lesser duty provision is contained in the World Trade Organisation Anti-Dumping Agreement and the Dumping Duty Act.[62]

The NIP provides the mechanism whereby this lesser duty provision is given effect. The NIP is the minimum price necessary to prevent injury to the Australian industry producing like goods.[63]

Anti-dumping measures are based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

12.3 Unsuppressed Selling Price

USP and NIP issues are examined at an early stage of an investigation and, where possible and appropriate, examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice and/or a countervailing duty notice.[64]

ACBPS generally derives the NIP by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping and subsidies. This price is referred to as the USP.

ACBPS's approach to establishing USPs observes the following hierarchy:

- industry selling prices at a time unaffected by dumping and subsidies; or
- constructed industry prices – industry CTMS plus profit; or
- selling prices of un-dumped / unsubsidised imports.

Having calculated the USP, ACBPS then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia.

These deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

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[62] Subsection 8(5A) of the Dumping Duty Act

[63] Subsection 269TACA(a) of the Act.

[64] Subsection 269TC(1)(c) of the Act.

If the export prices are greater than the NIP, it would suggest that dumping and subsidisation may not be causing material injury. If, on the other hand, the export prices are lower than the NIP, this would support a finding that dumped and subsidised imports have caused material injury to the applicant producing like goods.

12.4 BlueScope's claims

On 30 January 2013, BlueScope lodged a submission regarding calculating USPs and NIPs[65]. In its submission BlueScope suggested that ACBPS calculate USPs:

- for aluminium zinc coated steel based on BlueScope's CTMS for 2011-12 plus the level of profit it achieved in 2009-10; and
- for galvanised steel based on BlueScope's CTMS for 2011-12 plus the level of profit it achieved on aluminium zinc coated steel in 2009-10. BlueScope claims that its profit on galvanised steel in 2009-10 is not indicative of a profit that could have been achieved in 2011-12 in the absence of dumping due to the effects of the global financial crisis and the level of injurious imports in 2009-10.

12.5 ACBPS's assessment

ACBPS does not consider that industry selling prices are suitable to be used as a basis for a USP due to BlueScope's matching of import prices.

ACBPS considers the most appropriate basis for estimating the USP is to construct a selling price that BlueScope could reasonably be expected to achieve in a market unaffected by dumping and subsidisation. BlueScope's methodology for constructing a USP is not considered reasonable given that it has no connection to the manner in which its prices are currently established. As highlighted throughout the material injury assessment, BlueScope's prices are based on an equivalent into-store import parity price plus a local premium to account for such factors as shorter lead times, delivery options and after-sales service and support.

Further, the approach submitted by BlueScope would also appear to compensate for more than just the effects of dumping/subsidisation. The weak demand and excess capacity of steel globally, the strong Australian dollar and the impact of BlueScope's restructured local business are all overlooked in its proposed USP.

ACBPS is of the view that in a market unaffected by dumping and subsidisation, it is reasonable to expect that BlueScope would be able to achieve as a minimum, selling prices that reflected un-dumped and un-subsidised import parity pricing. Accordingly, ACBPS considers that the FOB non-injurious price for each exporter is a price equal to the respective normal value.

[65] A non-confidential version of this submission (number 66) is available on the public record.

13 DISCRETIONARY FACTORS

The following matters may be considered should the Minister choose to exercise his discretion not to impose measures.

Some interested parties have claimed that an imposition of measures on galvanised steel or aluminium zinc coated steel will affect downstream suppliers. All submissions on discretionary factors received by the ACBPS are available on the public record.

Parties opposed to the introduction of measures on either galvanised steel or aluminium zinc coated steel or both contend that such imposition will increase costs for the importing of the respective goods and for purchasers of the respective goods, thereby causing injury to their businesses in Australia and the end user. Some parties claimed that introducing measures may result in the loss of Australian jobs and Australian-owned businesses. They also claim that imposition of measures may result in increased prices, anti-competitive behaviour from BlueScope such as monopoly-seeking behaviour, including obstructing entry to the market for new entrants and may result in a monopoly market in Australia for either galvanised steel, aluminium zinc coated steel, or the painted COLORBOND® product lines.

These parties include Australia-based and Australian-owned importers and end users:

- KLE Pty Ltd – metal tube forming and finishing manufacturers
- B&R Enclosures Pty Ltd – specialist manufacturer of enclosures for the electrical, electronics, data and communications markets
- Ford
- GM Holden
- Thunderbox Toolboxes Pty Ltd - manufacture steel & aluminium toolboxes
- United Industrial Pty Ltd - specialises in strategic sourcing of materials and equipment for supply into predominantly the railway and construction industries
- Ace Gutters - manufacturer and supplier of rainwater products
- OneSteel Coil Coaters - producer and supplier of painted steel and aluminium coil and sheet

Importer and exporter industry associations:

- Chinese Iron and Steel Association (CISA); and
- Australian Steel Association (ASA).

14 PROPOSED MEASURES

ACBPS recommended to the Minister in REP 190 that dumping duty notices be published in respect of:

- galvanised steel exported to Australia by all exporters from China, Korea and Taiwan (other than exported by Union Steel Korea, Sheng Yu and Ta Fong); and
- aluminium zinc coated steel exported to Australia by all exporters from China and Korea (other than exported by Union Steel Korea).

ACBPS also recommends to the Minister that countervailing duty notices be published in respect of

- galvanised steel exported to Australia by all exporters from China, other than ANSTEEL and TAGAL; and
- dumping and countervailing duty notices be published in respect of aluminium zinc coated steel exported to Australia by all exporters from China other than ANSTEEL.

ACBPS does, however, recommend to the Minister that exemptions be applied to certain goods that are currently subject to TCOs.

The calculation of combined dumping and countervailing duties is not simply a matter of adding the reported dumping and subsidy margins together for any given exporter, or group of exporters. Rather, subject to the lesser duty rule (given effect through the NIP), the collective interim dumping duty and interim countervailing duty imposed in relation to galvanised steel and aluminium zinc coated steel from China, as proposed in this report, will be the sum of:

- the subsidy rate calculated for all countervailable programs, including Programs 1, 2 and 3; and
- the dumping rates calculated, less an amount for the subsidy rate applying to Programs 1, 2 and 3.

This approach avoids any overlap or double-counting that may arise from the circumstances of this case where there are domestic subsidies and a constructed normal value that includes a major cost component that is based on surrogate data.

The level of any countervailing measures is determined in conjunction with the Minister's decision in relation to the dumping investigations.

15 RECOMMENDATIONS

The Delegate of the CEO is satisfied that:

- the dumped and subsidised galvanised steel exported to Australia from China has caused material injury to the Australian industry producing like goods; and
- the dumped and subsidised aluminium zinc coated steel exported to Australia from China has caused material injury to the Australian industry producing like goods.

The Delegate of the CEO recommends that the Minister impose:

- countervailing measures on galvanised steel exported to Australia from China (except for galvanised steel exported by ANSTEEL and TAGAL); and

- countervailing measures on aluminium zinc coated steel exported to Australia from China (except for aluminium zinc coated steel exported by ANSTEEL).

The Delegate of the CEO recommends the Minister be satisfied:

- in accordance with s.269TACC(7) that subsections 269TACC(2), (3), (4) and (5) are inappropriate for determining whether a benefit has been conferred, or subsection 269TACC(6) is inappropriate for determining the total amount of subsidy attributable to a conferred benefit;

- in accordance with s.269TJ(2) a countervailable subsidy has been received in respect of galvanised steel that has been already exported to Australia from China and that may be exported to Australia from China in the future and because of that, material injury to the Australian industry producing like goods has been, or is being caused;

- in accordance with s.269TJ(2) a countervailable subsidy has been received in respect of aluminium zinc coated steel that has been already exported to Australia from China and that may be exported to Australia from China in the future and because of that, material injury to the Australian industry producing like goods has been, or is being caused;

- in accordance with s.269TJA(1), that as to galvanised steel that has been exported to Australia from China:

    - the amount of the export price of the goods is less than the amount of the normal value of the goods; and
    - a countervailable subsidy has been received in respect of the goods; and
    - because of the combined effect of the two, material injury to the Australian industry producing like goods has been and is being caused

- in accordance with s.269TJA(2), that as to galvanised steel that has already been exported to Australia from China:

- the amount of the export price of the goods is less than the amount of the normal value of the goods and the amount of the export price if the goods exported to Australia in the future may be less than the normal value of the goods; and
- a countervailable subsidy has been received in respect of the goods and may be received in respect of like goods that may be exported to Australia in the future; and
- because of the combined effect of the two, material injury to the Australian industry producing like goods has been and is being caused;

- in accordance with s.269TJA(1), that as to aluminium zinc coated steel that has been exported to Australia from China:
  - the amount of the export price of the goods is less than the amount of the normal value of the goods; and
  - a countervailable subsidy has been received in respect of the goods; and
  - because of the combined effect of the two, material injury to the Australian industry producing like goods has been and is being caused

- in accordance with s.269TJA(2), that as to aluminium zinc coated steel that has already been exported to Australia from China:
  - the amount of the export price of the goods is less than the amount of the normal value of the goods and the amount of the export price if the goods exported to Australia in the future may be less than the normal value of the goods; and
  - a countervailable subsidy has been received in respect of the goods and may be received in respect of like goods that may be exported to Australia in the future; and
  - because of the combined effect of the two, material injury to the Australian industry producing like goods has been and is being caused.

The delegate of the CEO recommends the Minister determine:

- in accordance with s.269 TAAC(4), the subsidy Program 1 (Hot rolled steel provided by government at less than adequate remuneration) is specific;

- in accordance with s.269 TAAC(4), the subsidy Program 2 (Coking coal provided by government at less than adequate remuneration) is specific;

- in accordance with s.269 TAAC(4), the subsidy Program 3 (Coke provided by government at less than adequate remuneration) is specific;

- in accordance with s.269TACC(3), the financial contribution received in respect of galvanised steel, of a kind that is other than that referred to in s.269TACC(2), has conferred a benefit;

- in accordance with s.269TACC(3), the financial contribution, received in respect of aluminium zinc coated steel, of a kind that is other than that referred to in s.269TACC(2), has conferred a benefit;

- in accordance with s.269TACC(7), for the selected non-cooperating exporters, an alternative basis for deciding whether a benefit has been conferred or for working out the amount of subsidy attributable to the benefit.

The delegate of the CEO recommends the Minister declare:

➢ in relation to galvanised steel:

  - in accordance with s.269TJ(2), by public notice, that s.10 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from China (except ANSTEEL and TAGAL), after the date of publication of the notice.

➢ in relation to aluminium zinc coated steel:

  - 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 ANSTEEL), after the date of publication of the notice.

The delegate of the CEO recommends the Minister exempt:

- in accordance with s10(8)(b) of the Dumping Duty Act, from interim countervailing duty and interim countervailing duty and dumping and countervailing duty goods covered by the following TCOs in force at the date of this report:

  - TC 0939596
  - TC 1242989
  - TC 1317796
  - TC 1248989
  - TC 1248930
  - TC 1349350
  - TC 1349351
  - TC 1349352
  - TC 1349354

APPENDIX 1 – DO SIES QUALIFY AS 'PUBLIC BODIES' UNDER THE ACT?

A1.1 Introduction

In REP 177, in relation to HSS, ACBPS concluded that SIEs producing HRC and/ or narrow strip constitute a public body within the meaning of the Act, after taking into account recent findings of the WTO Appellate Body in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China, dispute DS379* (DS379).

BlueScope's applications in relation to galvanised steel and aluminium zinc coated steel assert that the findings of ACBPS in REP 177 are readily applicable to the circumstances of galvanised and aluminium zinc coated steel, given the contemporaneous findings of ACBPS in REP 177 published in 2012, the investigation period for the current investigations immediately follows the investigation period in REP 177, and because the Chinese galvanised and aluminium zinc coated steel industry includes SIE industry participants that are also manufactures of HRC.

A1.2 ACBPS' assessment

The Trade Measures Review Officer (TMRO) reviewed the decision of the Minister to publish a countervailing duty notice in relation to exports of HSS from China. Following a recommendation from the TMRO, the Minister directed ACBPS to reinvestigate its finding that HRC producers were SIEs for the purpose of assessing subsidies. The Minister considered ACBPS's recommendation following the reinvestigation and affirmed his decision to publish a countervailing duty notice[66].

In affirming the decision to publish the notice, the Minister accepted ACBPS's finding that the original finding in relation to public bodies should not be changed. REP 203 sets out ACBPS's findings in relation to the reinvestigation, which include the following in relation to the public body issue:

> 'The reinvestigation finds that sufficient evidence exists to reasonably consider that, for the purposes of the investigation into the alleged subsidisation of HSS from China, SIEs that produce and supply HRC and/or narrow strip should be considered to be 'public bodies'. The reinvestigation considers that these SIEs are exercising government functions and that there is evidence that the government exercises meaningful control over SIEs and their conduct. In performing government functions, SIEs are controlling third parties.'[67]

[66] Notified on 13 May 2013

[67] REP 203, p44

Based on the findings in REP 203, ACBPS considers it is reasonable to conclude for the purpose of the current investigations that SIEs that produce and supply HRC to manufacturers of galvanised steel and aluminium zinc coated steel should be considered public bodies.

ACBPS also considers that the evidence and reasons set out in REP 203, while made in relation to consideration of HRC producers and suppliers, are equally applicable to SIE producers and suppliers of coking coal and/or coke. For example, the analysis of Indicia 3 from DS379 refers to various documents and policies that indicate the GOC's control over SIEs generally. REP 203 states that '*The reinvestigation considers that these notices and laws demonstrate that the GOC exercises meaningful control over iron and steel producing SIEs.*'[68]

Because coking coal and coke producers are part of the iron and steel industry in China, ACBPS considers that SIE producers and suppliers of coking coal and coke in China should be considered public bodies.

[68] REP 203, p56

APPENDIX 2 - ASSESSMENT OF ADEQUATE REMUNERATION FOR HRC IN CHINA

A2.1 Introduction

After determining:

- that SIEs that supplied HRC in China are 'public bodies' for the purposes of the Act in relation to subsidy Program 1 (see Appendix 1); and
- that the costs incurred by galvanised steel and aluminium zinc coated steel manufacturers in China for HRC used in the investigation period do not reasonably reflect competitive market costs in terms of Regulation 180(2) (due to the influence of the GOC in the Chinese iron and steel industry - see SEF190);

ACBPS has sought to determine a benchmark cost that represents adequate remuneration for HRC in China, to determine benefit received under subsidy Program 1 (purchases of HRC from SIEs at less than adequate remuneration).

ACBPS notes that the concept of 'adequate remuneration' for the purposes of its subsidy investigation, and the notion of a competitive market cost for the purposes of constructing normal values in line with Regulation 180(2), are separate concepts.

It is considered that these do not necessarily require the same calculation/data base, and there may be circumstances in which it is reasonable to use separate information to establish adequate remuneration and competitive market costs for the same goods in an investigated country.

However, ACBPS considers it reasonable to determine that the benchmark established to determine adequate remuneration for HRC in China is also suitable for use to determine competitive market costs for those goods.

In the circumstances of HRC in China, a competitive market cost is considered to be adequate remuneration for those goods, and vice versa. Consequently, the same amount has been applied by ACBPS in each context (hereafter referred to as 'the benchmark' irrespective of the context of its use).[69]

A2.2 Approach to Benchmark HRC Costs

The construction of normal value in INV190a and INV190b under s269TAC(2)(c) of the Act was undertaken in accordance with the conditions of Regulation 180,181 and 181A of the *Customs Regulations 1926*.

[69] I.e. whether it refers to adequate remuneration, or competitive market costs for HRC and narrow strip.

Regulation 180(2) requires that if an exporter keeps records in accordance with generally accepted accounting principles and those records reasonable reflect competitive market costs associated with the production of like goods then the cost of production must be worked out using the exporter's records.

ACBPS's view is that HRC prices are affected by GOC influences and do not reasonable reflect competitive market costs.

The issue of an appropriate benchmark for HRC costs was discussed in SEF 190[70]. That report discussed three options for determining a benchmark, in order of preference based on World Trade Organisation (WTO) Appellate Body findings:

- private domestic prices;
- import prices; and
- external benchmarks.

<u>(i) Private domestic prices</u>

ACBPS's assessment of data submitted by cooperating exporters in the galvanised steel and aluminium zinc coated steel investigations shows that there is no significant difference between HRC prices from SIE and private suppliers. ACBPS considers that private domestic prices of HRC in China are still not suitable for determining a competitive market cost free from government influence as they are equally affected by government influence.

<u>(ii) Import prices</u>

The GOC's response to the Government questionnaire in relation to HRC imports and the data supplied by cooperating exporters during the current investigations indicate that only a small quantity of HRC was imported in China during the investigation period. Due to the small quantity of imports of HRC, it is likely that import prices were equally affected by the government influences on domestic prices. ACBPS considers that import prices are not suitable for determining a competitive market cost of HRC.

<u>(iii) External benchmarks</u>

ACBPS has determined that an appropriate benchmark for HRC costs in China is the weighted average domestic HRC price paid by cooperating exporters of galvanised steel and aluminium zinc coated steel from Korea[71] and Taiwan[72], at comparable terms of trade and conditions of purchase to those observed in China.

As reported in SEF 190, it was observed that some Korean and Taiwanese exporters use hot rolled band (HRB) as well as HRC for the production of galvanised steel and aluminum zinc coated steel exported to Australia. Some Chinese exporters also purchase HRB. HRB is not skin passed and exhibited only a minor price difference

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[70] Section 9.3.2

[71] Dongbu Steel and Union Steel.

[72] Chung Hung Steel, Yieh Phui Enterprise and Sheng Yu Steel.

to HRC used for the manufacture of galvanised steel and aluminum zinc coated steel during the investigation period. For the purpose of the benchmark, all HRB purchases were included.

One cooperating Korean exporter reported its HRC purchases by differentiating between HRC that was produced using the electric arc furnace method and HRC produced using the blast furnace method. The different types of HRC exhibited minor price differences in the investigation period. It is not clear what type of HRC was purchased for the production of galvanised steel and aluminum zinc coated steel in China. As such for the purpose of calculating the benchmark, all HRC purchases were included.

From the responses to the exporter questionnaire provided by three cooperating non-integrated Chinese exporters, two exporters provided HRC purchase data inclusive of delivery costs while the third exporter had both delivered and EXW terms. The delivery cost for HRC for this exporter was calculated as a weighted average cost per tonne, using the difference between the EXW and delivered prices per tonne multiplied by the quantity. An upward adjustment was made to all EXW HRC purchases during the investigation period.

For the purpose of calculating the benchmark, all HRC purchases by the cooperating exporters were adjusted to delivered prices.

APPENDIX 3 - ASSESSMENT OF ADEQUATE REMUNERATION FOR COKING COAL IN CHINA

A3.1 Introduction

After determining that SIEs that supplied coking coal in China are 'public bodies' for the purposes of the Act (see Appendix 1), ACBPS has sought to determine a benchmark cost that represents adequate remuneration for coking coal in China, to determine benefit received under subsidy Program 2 (purchases of coking coal from SIEs at less than adequate remuneration).

In establishing the benchmark for the alleged countervailable subsidy benefits received by the Chinese exporters for coking coal, the following issues have been identified:

- the volume and value of production of coking coal in China could not be reliably ascertained because the GOC was not able to provide the relevant data. While the GOC in the SGQ provided the names of the top 15 producers of coking coal, it did not provide the production volumes. The GOC stated that production data was not available;

- there is no international benchmark price for coking coal. China has been identified as the major producer and consumer of coking coal. China also restricted the trade of coke to the international market by levying high export taxes and restrictions. As such, the market for coking coal is highly concentrated in China.

To establish a benchmark price for coking coal the following sources of data have been obtained and compared: the GOC, data purchased by ACBPS from Resource-net, SBB subscriptions and data provided by BlueScope. It is to be noted that none of these sources of data has been independently verified by ACBPS; however it can be established that prices obtained from these different sources closely resemble each other in most cases.

Government of China

The GOC in its responses to the GQ and SGQ provided import and export data for coking coal. The GOC stated that it '*was not able to obtain and provide all the requested information due to the size and complexity of the Steel industry in China'*.

The GOC stated that this data was based on the best available information to the GOC. The data provided was total value and volume on a quarterly basis from 2009 to 30 June 2012 (confidential Appendices 2 and 4 of the questionnaire response refers).

Resource-Net

Andrew Jones, the owner of Resource-Net, is an independent analyst and researcher on the mineral commodity markets. He established Resource-net in Brussels, Belgium in 1999. Resource-Net's main interest lies in producing regular research reports on the global markets for:

- Metallurgical and foundry coke;
- Anthracite for reduction applications, metallurgical coke replacements; and
- Metallurgical coals (coking, PCI).

Andrew claims that he has more than 20 years professional experience, including periods of employment at Metal Bulletin Research (London) and Standard Bank (Johannesburg). Professional qualifications include an honours degree in metallurgy from the University of Sheffield and a master's degree in multinational commerce from Boston University Brussels.

Resource-net provided data for the top 5 countries (or 3 countries where data was not available for all 5 countries) on a monthly basis (where data was available on monthly basis) by production, consumption and exportation of coking coal. The method of data collection is by telephone inquiry to major industry players around the world. No further information regarding the methodology to collect data was provided.

Resource-net was not able to provide data on domestic prices for coking coal in any country.

SBB

The Steel Business Briefing (SBB), Platts SBB steel prices (domestic and international) publish daily reports that it researches and analyses for a range of steel products in the major world markets.

Platts SBB contains the following disclaimer: '*Platts SBB prices are intended solely for use as guidelines. They should not be relied upon to make (or refraining from making) any business investment or other decision. SBB is not responsible for any use of the content by you. It is solely your responsibility to evaluate the accuracy, completeness and fitness for any purpose of the prices contained on this Site.'*

It is to be noted that ACBPSs has relied on SBB data in previous investigations, as did the EC in its recent organic coated steel case. As such it is considered reasonably reliable. Data for Australian export prices for coking coal was considered for establishing a benchmark price.

Data obtained by BlueScope

BlueScope provided coke, coking coal, iron ore and scrap metal data sourced from a research unit in London. BlueScope stated that it looks to this organisation for its research data in steel and raw material commodities. The organisation is an independent, privately-owned company. It has no corporate parent, advertisers or outside shareholders. The method of data collection by the organisation is not known.

BlueScope advised that the data it obtained, and the source, was confidential and could not be used in a public document. ACBPS has had regard to the data provided by BlueScope in comparing the prices to public data. ACBPS found that in many instances the data obtained by BlueScope was not dissimilar from data provided by other sources.

A3.2 Domestic market for coking coal

The GOC doubled its export tax on coking coal[73] from 5% in 2007 to 10% in mid-2008. The export tax continued to remain at 10% in the current investigation period. Imposing a high export tax and no import tax on coking coal in the period under examination indicates that the GOC discouraged exportation of those goods from China while encouraging importation. The GOC stated that despite the large number of coking coal mines, the demand for coking coal is so high in China that it requires imports from other countries.

The GOC provided in confidential form the quantity of imports and exports of coking coal from January 2009 to June 2012 (confidential appendices 15 and 22 refer).

It is to be noted that China has been by far the largest producer of coking coal in the world. ACBPS considers that in imposing high export tax, providing no VAT rebates on exports and imposing no import taxes, the GOC restrained the supply of coking coal to the international market. Due to these restrictions (controls), the market for Chinese produced coking coal was restricted to downstream users in China. In addition to the export restrictions, the GOC also implemented policies (such as no import tax) that encouraged importation of coking coal into China.

The effects of the GOC's export and import tax policies indicates that there was no 'free trade' of coking coal in the international market to determine a competitive market price for coking coal. Reduced exports divert supply to the domestic market, leading to a downward pressure on domestic prices. Through this restrictive supply effect on the international and domestic markets, export duties and quotas created a differential between the price available to domestic processors and the price charged to foreign processors.

[73] According to *Ignacio et.al 2011* increasing demand from metallurgical industry resulted in a significant increase in global coking coal, from 480Mt in 2000 to 793.8MT in 2008, by 65%. China was responsible for almost half the world coking coal production in 2008 (response to GQ A-14 (Attachment 7 (pg. 16) refers).

A3.3 Adequate remuneration for coking coal

Having found that domestic prices of coking coal in China are being influenced and distorted by the GOC, a benchmark price has been established. The three options for determining a benchmark, in order of preference based on World Trade Organisation (WTO) Appellate Body findings are:

- private domestic prices;
- import prices; and
- external benchmarks.

(i) Private domestic prices

ACBPS found that private prices of coking coal were equally affected by government influence and therefore not suitable. ACBPS's assessment of data submitted by fully integrated cooperating exporters in the galvanised steel and aluminium zinc coated steel investigations shows that there is no significant difference between coking coal and coke prices from SIE and private suppliers. ACBPS considers that private domestic prices of coking coal and coke in China are not suitable for determining a competitive market price free from government influences.

(ii) Import prices

ACBPS found that import prices were not suitable as a benchmark due to the lack of import penetration of coking coal and the likelihood that import prices were equally affected by the government influences on domestic prices.

The GOC's response to the Government questionnaire in relation to coking coal imports and the data supplied by cooperating exporters during the current investigations indicate that only a small quantity of coking coal was imported in China during the investigation period. This was to supplement the shortfall from its own production capability. Due to the small quantity of imports of coking coal, it is likely that import prices were equally affected by the government influences on domestic prices. ACBPS considers that import prices are not suitable for determining a competitive market price of coking coal in the IP.

(iii) External benchmarks

Having eliminated the first two options as discussed above, ACBPS considered various other options as outlined below to establish a benchmark price of coke and coking coal. These include:

- Chinese export price of coking coal compared to the export prices of the top 5 exporting countries in the world;
- Australian export price of coking coal – Australia being one of the major producers of coking coal;
- Import prices of a third country. India is one of the major producers and consumers of coking coal and has similar geographical location and economy. Indian import prices has been compared to the import prices of the top 4 importing countries in the world; and

- Korean and Taiwan prices for coking coal.

These options are discussed below.

A3.3.1 Option1 – export prices

i) *Method 1:* Data provided by the GOC for Chinese export prices. The export prices provided by the GOC are said to be non-inclusive of export tax.

ii) *Method 2:* Australia is a major producer and exporter of coking coal. As such, Australian export prices could be taken as a 'competitive world market price' for coking coal. This data was provided by Resource-net and SBB. The SBB price is higher than the export price obtained from Resource-net. ACBPS is unable to determine the cause of the difference between the data sources.

Canadian and USA export prices of coking coal, provided by Resource-net have also been compared and are found to be within the range of Australian export prices (with comparable terms of trade). The Australian export price sits in the middle of Canada and the USA.

During ACBPS's consultation with the GOC at the screening stage of the applications, the GOC stated that the quality of coking coal in China is lower than that of Australia. As such, there is a risk of mismatching different qualities of coking coal when comparing the price of Chinese domestic prices (possibly lower quality) against the Australian (possibly higher quality) export price.

A3.3.2 Option 2 – Korean and/or Taiwanese prices

Current investigations into galvanised steel and aluminium zinc coated steel

POSCO is the only fully integrated exporter from Korea that cooperated in the dumping investigations (INV190a and INV190b). POSCO imports all its coking coal requirements. As such, Korean prices cannot be used as a benchmark domestic price.

None of the cooperating Taiwanese exporters in the dumping investigations is fully integrated. All cooperating Taiwanese exporters purchase HRC to produce the goods. As such Taiwan data cannot be used to establish a benchmark domestic price for coking coal.

HRC Investigation (INV 188) - HRC Exported from Japan, the Republic of Korea, Malaysia and Taiwan

(i) POSCO – the visit report to POSCO states that the major raw materials for production of HRC are imported;
(ii) Hyundai Hysco – the visit team confirmed that all coking coal used in the production was imported (mostly from Russia); and
(iii) China Steel (Taiwan) – the visit team confirmed that all coking coal was imported.

Therefore, a benchmark domestic price for coking coal cannot be established using Korean or Taiwanese prices as there is no domestic market for coking coal. Both Korea and Taiwan import coking coal while China produces coking coal and only imports to supplement the shortfall in domestic supply.

A3.3.2 ACBPS's assessment – benchmark price for coking coal

Having considered all the options, ACBPS considers that adequate remuneration for coking coal sold domestically in China can be established using the Chinese export price for coking coal (exclusive of export tax) based on data provided by the GOC for the following reasons:

- Australian export prices may be unusually high, and therefore not suitable for comparison, during the period July 2011 to December 2011 as a result of floods in Queensland disrupting production and transportation of Australian coking coal during this period;

- there are a variety of factors affecting the quality of coking coal and the quality of coking coal produced, imported and/or exported by each of the top five countries trading in these commodities cannot be determined. The coking coal exported by the GOC is considered to be the most comparable to the coking coal purchased domestically by the cooperating Chinese exporters. The export data provided by the GOC is considered to have a lower risk compared to data from other countries for the purpose of determining adequate remuneration;

- domestic purchase price data has been provided by cooperating Chinese exporters and verified by ACBPS. The proposed export price data was provided by a reliable source (the GOC) and is considered more directly relevant to Chinese producers and exporters in the IP;

- the cost of production of coking coal for the Chinese domestic and export markets, respectively, is likely to be similar if not the same;

- the Chinese export prices for coking coal are comparable to the export prices of the top 5 exporters (countries) in the world on comparable terms of trade; and

- China is the major producer and consumer of coking coal. There is no other economy comparable to China's appetite for coking coal. As such, it is appropriate to compare Chinese domestic prices with Chinese export prices;

The use of Chinese export prices is not without problems. As noted above, coking coal is of varying qualities. The GOC was not able to identify in the export data what type of coking coal was represented in the prices. ACBPS cannot be certain that the coking coal purchased by Chinese manufacturers of galvanised steel and aluminium zinc coated steel is comparable, in terms of quality, to the exported coking coal.

APPENDIX 4 - ASSESSMENT OF ADEQUATE REMUNERATION FOR COKE IN CHINA

A4.1 Introduction

After determining that SIEs that supplied coke in China are 'public bodies' for the purposes of the Act (see Appendix 1), ACBPS has sought to determine a benchmark cost that represents adequate remuneration for coke in China, to determine benefit received under subsidy Program 3 (purchases of coke from SIEs at less than adequate remuneration).

In establishing the benchmark for the alleged countervailable subsidy benefits received by the Chinese exporters for coke, the following difficulties have been identified:

- the volume and value of production of coke in China could not be reliably ascertained because the GOC was not able to provide the relevant data. While the GOC in the SGQ provided the names of the top 15 producers of coke, it did not provide the production volumes. The GOC stated that production data was not available;

- data for coke imports provided by the GOC may not be reliable. This is due to the fact that there seems to be anomalies in the data. After inquiring, the GOC confirmed the data provided is correct but did not provide any formal response as to why there is a large difference in import prices in the last two quarters compared to the first two quarters of the investigation period (IP). The GOC assumes that it could be due to the quality of coke or based on negotiated prices; and

- there is no international benchmark price for coke. China has been identified as the major producer and consumer of coke. China also restricted the trade of coke to the international market by levying high export taxes and restrictions. As such, the market for coke is highly concentrated in China.

To establish a benchmark price for coke the following sources of data have been obtained and compared. These sources include the GOC, data purchased by ACBPS from Resource-net, SBB subscriptions and data provided by BlueScope. It is to be noted that none of these sources of data has been independently verified by ACBPS; however it can be established that prices obtained from these different sources closely resemble each other in most cases.

<u>Government of China</u>

The GOC in its responses to the GQ and SGQ provided import and export data for coke. The GOC stated that it '*was not able to obtain and provide all the requested information due to the size and complexity of the Steel industry in China*'.

The GOC stated that this data was based on the best available information to the GOC. The data provided was total value and volume on a quarterly basis from 2009 to 30 June 2012 (confidential Appendices 2 and 4 of the questionnaire response refers).

Resource-Net

Andrew Jones, the owner of Resource-Net, is an independent analyst and researcher on the mineral commodity markets. He established Resource-net in Brussels, Belgium in 1999. Resource-Net's main interest lies in producing regular research reports on the global markets for:

- Metallurgical and foundry coke;
- Anthracite for reduction applications, metallurgical coke replacements; and
- Metallurgical coals (coking, PCI).

Andrew claims that he has more than 20 years professional experience, including periods of employment at Metal Bulletin Research (London) and Standard Bank (Johannesburg). Professional qualifications include an honours degree in metallurgy from the University of Sheffield and a master's degree in multinational commerce from Boston University Brussels.

Resource-net provided data for the top 5 countries (or 3 countries where data was not available for all 5 countries) on a monthly basis (where data was available on monthly basis) by production, consumption, importation and exportation of coke. The method of data collection is by telephone inquiry to major industry players around the world. No further information regarding the methodology to collect data was provided.

Resource-net was not able to provide data on domestic prices for coke in any country.

SBB

The Steel Business Briefing (SBB), Platts SBB steel prices (domestic and international) publish daily reports that it researches and analyses for a range of steel products in the major world markets.

Although ACBPSs has relied on SBB data in previous investigations and considers it reasonably reliable, SBB does not contain any price data in relation to coke.

Data obtained by BlueScope

BlueScope provided coke, coking coal, iron ore and scrap metal data sourced from a research unit in London. BlueScope stated that it looks to this organisation for its research data in steel and raw material commodities. The organisation is an independent, privately-owned company. It has no corporate parent, advertisers or outside shareholders. The method of data collection by the organisation is not known.

BlueScope advised that the data it obtained, and the source, was confidential and could not be used in a public document. ACBPS considers that interested parties would not be afforded procedural fairness if adequate remuneration was determined having regard to confidential information. However, ACBPS has had regard to the data provided by BlueScope in comparing the prices to public data. ACBPS found that in many instances the data obtained by BlueScope was not dissimilar from data provided by other sources.

A4.2 Domestic market for coke

In China, the export tax on coke increased from 5% in 2007 to 25% in 2008 and then spiked to 40% in mid-2008. The export tax continued to remain at 40% in the current investigation period. Imposing a high export tax and no import tax on coke in the period under examination indicates that the GOC discouraged exportation of those goods from China while encouraging importation. The GOC stated that despite the large number of coking coal mines, the demand for coke is so high in China that it requires imports from other countries.

The GOC provided in confidential form the quantity of imports and exports of coking coal from January 2009 to June 2012 (confidential appendices 16 and 23 refer).

It is to be noted that China has been by far the largest producer of coke in the world. ACBPS considers that in imposing high export tax (40%), providing no VAT rebates on exports, applying export quotas and imposing no import taxes, the GOC restrained the supply of coke to the international market. Due to these restrictions (controls), the market for Chinese produced coke was restricted to downstream users in China. In addition to the export restrictions, the GOC also implemented policies (such as no import tax) that encouraged importation of coke into China.

In its response to the SGQ (public record attachment 80 refers), the GOC stated that the export quota for coke in 2011 was 8.4 million tonnes and 2012 was 9 million tonnes. This equates to approximately 2% of the total production of coke in China in 2011 and 2012.

The effects of the GOC's export and import tax policies indicates that there was no 'free trade' of coke in the international market to determine a competitive market price for coke. Reduced exports divert supply to the domestic market, leading to a downward pressure on domestic prices. Through this restrictive supply effect on the international and domestic markets, export duties and quotas created a differential between the price available to domestic processors and the price charged to foreign processors.

A4.3 Adequate remuneration for coke

Having found that domestic prices of coke in China are being influenced and distorted by the GOC, a benchmark price has been established. The three options for determining a benchmark, in order of preference based on World Trade Organisation (WTO) Appellate Body findings:

- private domestic prices;
- import prices; and
- external benchmarks.

(i) Private domestic prices

ACBPS found that private prices of coke were equally affected by government influence and therefore not suitable. ACBPS's assessment of data submitted by fully integrated cooperating exporters in the galvanised steel and aluminium zinc coated steel investigations shows that there is no significant difference between coke prices from SIE and private suppliers. ACBPS considers that private domestic prices of coke in China are not suitable for determining a competitive market price free from government influences.

(ii) Import prices

ACBPS found 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 domestic prices.

The GOC's response to the Government questionnaire in relation to coke imports and the data supplied by cooperating exporters during the current investigations indicate that only a small quantity of coke was imported in China during the investigation period. This was to supplement the shortfall from its own production capability. Due to the small quantity of imports of coke, it is likely that import prices were equally affected by the government influences on domestic prices. ACBPS considers that import prices are not suitable for determining a competitive market price of coke in the investigation period.

(iii) External benchmarks

Having eliminated the first two options as discussed above, ACBPS considered various other options as outlined below to establish a benchmark price of coke. These include:

- Chinese export price of coke compared to the export prices of the top 5 exporting countries in the world; and
- Import prices of a third country. India is one of the major producers and consumers of coking coal and has similar geographical location and economy.

These options are discussed below. It should be noted that ACBPS is not in possession of any data relating to the domestic price of coke in Korea and Taiwan, either from the dumping investigations for galvanised steel and aluminium zinc coated steel or from the hot rolled coil investigation.

A4.3.1 Option 1 – export prices

i) *Method 1:* Data provided by the GOC for Chinese export prices. The export prices provided by the GOC are said to be non-inclusive of export tax.

ii) *Method 2:* Data provided by Resource-net for Chinese export prices. The data from Resource-net was comparable to the data provided by the GOC for the investigation period.

iii) Method 3: Data provided by Resource-net for export prices from the top four exporters (by volume) of coke globally – Colombia, Poland, Russia and Ukraine. Data for Poland and Ukraine was provided on a monthly basis, however according to Resource-net, data for Colombia and Russia was not available on a monthly basis and only available for the 2011 calendar year.

The comparative analysis of the export prices in the investigation period shows that the Chinese export prices are within the range of export prices from other countries.

A4.3.2 Option 2 – India import prices

Using the import data purchased from Resource–net, India's weighted average import prices could be used as the benchmark price for coke given that India could be considered a 'like economy' to China for the purpose of the analysis. This is based on its south-east Asian location, both being emerging economies and their similar population size.

However, based on ACBPS's research the appetite for coke production, importation and consumption in India does not closely resemble China's. For example, during the investigation period China imported 94,000 tonnes of coke while India imported 2.1 million tonnes of coke. China produced 443.2 million tonnes of coke in 2012, while India produced 20.5 million tonnes of coke in the same period.

A4.3.3 ACBPS's assessment – benchmark price for coking coal

Having considered all the options, ACBPS considers that adequate remuneration for coke sold domestically in China can be established using the Chinese export price for coke (exclusive of export tax) based on data provided by the GOC for the following reasons:

- given that there are a variety of factors affecting the quality of coke, it is difficult to determine the quality of coke produced, imported and/or exported by each of the top five countries trading in these commodities. The coke exported by the GOC is considered to be the most comparable to the coke purchased domestically by the cooperating Chinese exporters. The export data provided by the GOC is considered to have a lower risk compared to data from other countries for the purpose of determining adequate remuneration;

- domestic purchase price data has been provided by cooperating Chinese exporters and verified by ACBPS. The proposed export price data was provided by a reliable source (the GOC) and is considered more directly relevant to Chinese producers and exporters in the IP;

- the cost of production of coke for the Chinese domestic and export markets, respectively, is likely to be similar if not the same;

- the Chinese export prices for coke are comparable to the export prices of two of the top 5 exporters (countries) in the world for which data was available for the investigation period; and

- China is the major producer and consumer of coke. There is no other economy comparable to China's appetite for coke. As such, it is appropriate to compare Chinese domestic prices with Chinese export prices.

The use of Chinese export prices is not without problems. The GOC was not able to identify in the export data what type of coke was represented in the prices. ACBPS cannot be certain that the coke purchased by Chinese manufacturers of galvanised steel and aluminium zinc coated steel is comparable, in terms of quality, to the exported coke.