

CLAYTON UTZ

Sydney Melbourne Brisbane Perth Canberra Darwin Hong Kong

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

13 November 2012

Our ref 11276/80133959

Dear Ms Cooke,

**Hot rolled coil steel (HRC) exported from the Republic of Korea, Taiwan, Japan and Malaysia:
Nippon Steel's response to BlueScope Submission of 29 October 2012**

1. We act for Nippon Steel & Sumitomo Metal Corporation (formerly Nippon Steel Corporation) (**Nippon Steel**), and refer to BlueScope's submission of 29 October 2012.
2. By way of response to BlueScope's submission, we reiterate that there is no evidence that the domestic HRC market as it relates to the automotive sector has suffered material injury as a result of exports of pickled and oiled HRC imported from Japan. Accordingly, those exports should be:
 - (a) *excluded* from any Dumping Duty Notice issued in this matter; and
 - (b) *exempted* from any anti-dumping measures.
3. Our client's submission is supported by the following factors:
 - (a) **(No injury in the automotive sector)** after an extensive inquiry involving evaluation of BlueScope's evidence, the Australian Customs and Border Protection Service (**Customs**) at paragraph 8.7.1 of the Statement of Essential Facts (**SEF**) published on 3 October 2012, found that no injury has been suffered by BlueScope in the automotive sector;
 - (b) **(No new information to justify alteration Customs finding in SEF)** BlueScope's submission provides no new information to warrant Customs departing from the above finding; and
 - (c) **(BlueScope's own evidence does not support injury)** BlueScope's evidence does not support a finding of injury in the domestic HRC market in the automotive sector due to dumped imports - whatever injury it may have suffered is due to the contraction of the local automotive market.
4. At a more general level, in its submission of 29 October 2012, BlueScope again acknowledged that it was unable to identify *lost sales* volumes in the automotive sector during the investigation period but then asserts that this does not unequivocally demonstrate an absence of injury. BlueScope's assertion misfires both as a matter of law and as a matter of logic.
5. As a matter of law, it for BlueScope to satisfy Customs that it has suffered injury - not for Customs to satisfy BlueScope that it (BlueScope) has not suffered injury.

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6. Second, BlueScope conceded that the long term contracts are prevalent in the automotive industry. It follows that some sales of HRC will not ever be made by BlueScope if the particular product is catered for by the long term contract. In this way, there are no lost sales because BlueScope did not *lose* any sale - it was never in a position to supply. Having said this, it is notable that BlueScope's submission conveniently disregards Customs' analysis that BlueScope's sales to the automotive sector were profitable:
- (a) despite the long term contracts;
 - (b) despite BlueScope not producing the entire range of required automotive sector steel; and
 - (c) despite BlueScope's product being inferior and not in accord with Ford and Toyota Tsusho's quality requirements.

In short, BlueScope has not been able to make out a case that it has suffered injury as a result of the sales of HRC from Japan the subject of long standing supply agreements.

7. Finally, and to avoid doubt, Nippon Steel has provided and relies on its previous submissions addressing the issue of whether the product it supplies to car manufacturers in Australia can be considered "like" and the issue of cumulation.

Yours sincerely,



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