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By email

Received
08 April 2013

Dear Nicole

POSCO - alleged dumping of galvanized steel from Korea
Response to Statement of Essential Facts 190

As you are aware, we represent POSCO in this matter.

Section 269TEA(3)(a)(iv) of the *Customs Act 1901* ("the Act") requires that, in deciding what recommendations are to be made to the Minister for Home Affairs ("the Minister") in the report in relation to an anti-dumping investigation published by the Chief Executive Officer of the Australian Customs and Border Protection Service (collectively, "Customs"), Customs must have regard to any submission made in response to a statement of essential facts that is received within 20 days after the placing of that statement on the public record.

We are writing in response to Statement of Essential Facts Number 190 ("the SEF"), which was published on 18 March 2013. Specifically, we are instructed to raise the following matters for Customs' consideration in determining what recommendations to make to the Minister:

- An exemption ultimately should be granted for POSCO's automotive zero-spangle GI.
- An exemption ultimately should be granted for POSCO's non-automotive zero-spangle HGI.
- An exemption ultimately should be granted for particular types of POSCO's non-automotive zero-spangle HGI.
- A separate ascertained export price should be calculated for POSCO's HGI.

These acronyms are possibly well known to Customs by now, but will be elaborated again in this submission.

NON-CONFIDENTIAL

A An exemption ultimately should be granted for POSCO's automotive zero-spangle GI

POSCO maintains its concern that BlueScope Steel limited ("BlueScope") does not manufacture zero-spangle GI; that zero-spangle GI is not a "like good" with any GI manufactured by BlueScope; and that zero-spangle GI for automotive industry usage cannot be said to have caused material injury to the Australian industry. On these bases dumping duties should not be imposed on POSCO's exports of zero-spangle GI.

However, in the alternative POSCO welcomes the comments made regarding the likelihood of the granting of an exemption from duties for zero-spangle automotive GI under Section 8(7) of the *Customs Tariff (Anti-Dumping Act) 1975* ("the Anti-Dumping Act"), should such an exemption be requested (see page 34 of the SEF).

To help Customs identify automotive zero-spangle GI, we provide Attachment 1 [CONFIDENTIAL ATTACHMENT].[1] Attachment 1 lists all of the automotive zero-spangle GI that POSCO imported into Australia in 2011 and 2012. Please note that POSCO only ever supplies CGI to the Australian automotive industry, and does not supply CGI for use by any other industry.[2] [3] This provides another definitional identification that could be used in any exemption ultimately granted, and which could therefore simplify the expression of the exemption (ie, "CGI for automotive industry usage").

We also note that in addition to being zero-spangle GI that is produced for - and sold to - the automotive industry, over [CONFIDENTIAL TEXT DELETED - figure] of POSCO's CGI also has a width greater than 1550mm, which is the outer-capability of BlueScope's claimed production capacity.[4] Page 35 of the SEF also accepts that this may provide suitable grounds on which an exemption would be granted, whether or not the steel is for automotive industry usage.

POSCO recognises that any exemption request could only be made after the time at which the Minister makes a final decision to impose duties, if that occurs.

B An exemption ultimately should be granted for POSCO's non-automotive zero-spangle HGI

Every form of GI that POSCO produced and exported into Australia was zero-spangle GI.

While we have addressed the issue of zero-spangle GI that POSCO produced for, and sold to, the Australian automotive industry in A above, there are still some matters regarding non-automotive zero-spangle GI that POSCO would like to clarify for the benefit of Customs. Therefore this section of our letter now deals with the circumstances of POSCO's non-automotive zero-spangle GI.

Specifically, it is clear from the text on page 34 of the SEF that Customs has accepted BlueScope's claim that, although it cannot produced zero-spangle GI, it can produce a minimum spangle product that is "substitutable" to zero-spangle in sectors other than the automotive sector. POSCO disagrees that minimum spangle coated steel is substitutable with zero-spangle steel. There are a number of reasons

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1 POSCO will happily provide any more information Customs requires in regard to either the carve-out or the prospective exemption, as may be required.

2 "CGI" refers to GI from a cold-rolled substrate.

3 In POSCO's product coding CGI is always designated by the letters "GB".

4 Customs is requested to independently verify the precise maximum widths of the goods under consideration produced by BlueScope during the POI.

why the conclusion in the SEF should not form the basis for any recommendations to the Minister in the report.

Firstly, the difference in spangles between the various forms of GI can be characterised as follows:

- regular spangle – spangle size: 10~30mm
- reduced spangle – spangle size: 2~5mm; and
- zero spangle – spangle size: less than 1.5mm.

In a practical sense, what the difference in spangle-size means is that reduced spangle GI still has a visible spangle. In contrast, zero spangle GI does not. If a customer wants to purchase GI without a spangle, the customer will purchase zero-spangle GI. POSCO does not consider that the customer would consider reduced spangle GI to be a substitutable product.

Secondly, BlueScope only offers its reduced spangle GI in relation to three of its products: ZINCFORM, GALVABOND and ZINCHITEN.[5] POSCO does not have information regarding the proportion of BlueScope's total coated steel production that these three products represent – although Customs should have access to such information - however it is apparent that such goods are only available for certain uses and in limited dimensions.[6] In contrast, every form of GI produced by POSCO is zero-spangle. Therefore, if BlueScope's minimum spangle GI was substitutable with POSCO's zero-spangle GI – which it is not - the field of competition would be very limited.

Thirdly, it is clear that BlueScope's minimum spangle products are simply variants of its spangled goods, and that the reduced spangle effect is only brought about through some further chemical process. In contrast, POSCO only produces zero-spangle GI. Unlike spangled GI, the production of zero-spangle GI does not require that the GI be coated in lead or other heavy metals. While this may seem like a simple enough distinction, it is actually quite difficult to consistently achieve in practice. Even a small amount of lead or other slight impurity in the zinc pot can lead to a "spangle" in the finished product. Despite this, spangled material is more expensive to make, because of the materials consumed in the production process for that material. BlueScope's reduced spangle product will have an additional cost component – on top of its already more expensive spangle production process - due to the spangle reduction process that it must go through. Therefore POSCO's zero-spangle product will be priced lower than BlueScope's can be.

From the above explanations, it should be clear that minimum spangle GI and reduced spangle GI are not substitutable goods. We consider that the limitations BlueScope has expressed in producing minimum spangle GI, the Australian markets' general predilection for spangled GI and the extra cost that would be borne by BlueScope – and presumably passed on to the consumer – in producing minimum spangle GI dictate that minimum spangle variants of BlueScope's GI are not sold frequently or in large quantities. We respectfully request that Customs reconsider BlueScope's sales data from the period of investigation to consider how much minimum spangle GI was sold, and to which industries.

Once Customs has done that, we consider that Customs will find that:

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5 *Sheet and Coil Product Guide* (BlueScope Steel) page 17, page 21 and page 22: http://www.bluescopesteel.com.au/files/dmfile/BluescopeSheetCoilProductGuideNov20101.pdf

6 *Ibid*, page 22, which provides that ZINCFORM is used only for rolled form structural sections, or nail plate, and the minimal spangle option is available 'subject to dimensional conditions'. This latter limitation is noted for every form of minimum spangle coil available.

- minimum spangle GI is not substitutable for zero-spangle GI; and
- BlueScope does not sell commercial quantities of minimum-spangle GI.

We request that these finding be reflected in the recommendations to the Minister, and that Customs make similar comments about the prospect that an exemption could also be granted in accordance with Section 8(7) of the Anti-Dumping Act for POSCO's non-automotive zero-spangle GI on application being made.

While we consider this alone to be sufficient grounds on which to base a Section 8(7) exemption for POSCO's non-automotive GI, there is another factor of differentiation that it is relevant for Customs to consider. The GI that POSCO exports to Australia for sale to non-automotive end-users is made from hot rolled substrate ("HGI"). POSCO understands that BlueScope does not have the facilities or equipment to produce HGI, or at least to produce HGI in commercially viable quantities. Instead, BlueScope produces CGI. This appears to be supported by page 25 of the SEF which, in explaining BlueScope's production method, indicates that BlueScope undertakes a cold rolling process to produce its cold rolled fully hard product. There is no indication that BlueScope can, or commonly does, undertake a hot-rolling process as an alternative.[7]

Page 31 of the SEF explains that Customs considers 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"*. We respectfully urge Customs to reconsider this finding.

HGI is a higher-strength metal which is known for its excellent anti-corrosion qualities, and may be produced in a far greater range of thicknesses than CGI. For example, POSCO can produce HGI between 1.2 and 4.5 mm thickness, which, as will be discussed below, is far beyond BlueScope's production capacity. Another major point of differentiation between HGI and CGI is that HGI can support a coating mass far greater than CGI. HGI can support a maximum coating mass of 725 g/m^{2,} whereas CGI can only support a maximum coating mass of 300 g/m^2. The additional coating mass on HGI augments its anti-corrosive properties, which means that it is ideal for certain construction applications, like the production of water tanks. CGI cannot be used for the same purposes. Indeed, in POSCO's experience, purchasers of HGI will not purchase CGI as a substitute. This sentiment has been echoed in a number of submissions made by interested parties throughout the investigations.[8]

In addition to these fundamental differences between the products, CGI is more expensive to produce in comparison to HGI. POSCO understands that CGI was approximately [CONFIDENTIAL TEXT DELETED - figure] expensive to produce than HGI during the POI. As a direct consequence, CGI was sold in Australia for a price approximately [CONFIDENTIAL TEXT DELETED - figure] higher than HGI. This added to the extra expenses incurred in the production of spangle GI and reduced spangle GI, as discussed in Part B, would mean that POSCO's CGI is to be considered as generally uncompetitive with POSCO's HGI for exemption purposes.

We request that this information be reflected in the recommendations to the Minister, and that Customs

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[7] HGI is not a good substrate for producing painted coated steel, because the surface of HGI is rougher than and not as clean as CGI. We consider it likely that, despite being far more costly than producing HGI, BlueScope produces CGI on the basis that it can be used to produce their painted steel products. Once again, we believe this intimates that BlueScope's driving concern when making commercial decision regarding coated steel is supporting its highly protected painted steel line.

[8] OneSteel ATM submission dated 27 November 2012; Chung Hung Steel Corporation submission dated 28 February 2013; and Chung Hung Steel Corporation submission dated 7 March 2013.

makes similar comments about the prospect that an exemption could be granted in accordance with Section 8(7) of the Anti-Dumping Act for all of POSCO's HGI on application being made.

C An exemption ultimately should be granted for particular types of POSCO's non-automotive zero-spangle HGI

The HGI that POSCO exported to Australia was zero-spangled HGI. We consider that the foregoing explanations of the difference between zero-spangled goods and reduced spangled goods, and CGI and HGI, should provide sufficient information for the CEO to determine that BlueScope does not produce a good that is "like" or directly competitive with POSCO's HGI.

Without detracting from this position we will now show that even if reduced spangle CGI (as produced by BlueScope) was to be considered a like good to zero spangle HGI (as produced by POSCO), the majority of the zero spangle GI that POSCO sold to industries other than the Australian automotive industry was in a form that could not be reproduced by BlueScope. Specifically, the majority of the HGI that POSCO exported during the period of investigation was [CONFIDENTIAL TEXT DELETED –sales information] or [CONFIDENTIAL TEXT DELETED – sales information] grade HGI. Each grade has various unique attributes, but the specific ones we wish to focus on are these:

- [CONFIDENTIAL TEXT DELETED –sales information]; and
- [CONFIDENTIAL TEXT DELETED –sales information].

We note that the only form of reduced spangle GI that BlueScope offers that has similar yield and tensile strength properties is its Zinc Hi-Ten G450 series ("G450") and G500 series ("G500").

G450 is a *"hot-dipped zinc coated structural steel with a spangled surface and a guaranteed minimum yield strength of 540 MPa".* Its typical uses are listed as being for the construction of *"purlins, structural decking and scaffolding"*.[9]

G500 is a *"hot-dipped zinc-coated structural steel with a spangled surface and a guaranteed minimum yield strength of 500 MPa".* Its typical uses are said to be for the manufacture of *"structural sections, house framing, agricultural posts and trellises"*.[10]

Although both the G500 and the G450 are available in a reduced spangle variant, the availability of the reduced spangle variant is subject to dimensional restrictions.[11] We are not aware of what these limitations are, and request that Customs review its records of this investigation to determine whether the supposed "like good" was available from BlueScope during the POI.

In any case, on the information we have, it is clear that the production of the G450 and the G500 in its natural spangled form is limited to various thickness/width combinations. The various thickness/width combinations are:

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9 http://www.bluescopesteel.com.au/files/ZINC_HI_TEN_G450_G450S.PDF

10 http://www.bluescopesteel.com.au/files/ZINC_HI_TEN_G500_G500S.PDF

11 http://www.bluescopesteel.com.au/files/dmfile/BluescopeSheetCoilProductGuideNov20101.pdf, at page 21 for example

G450		G500	
Thickness (mm)	Max Width (mm)	Thickness (mm)	Max Width (mm)
≥1.50 ≤ 1.60	1350	≥1.50 ≤ 1.60	1350
≥1.60 ≤ 1.80	1235		
≥1.80 ≤ 2.00	1220		
≥2.00 ≤ 2.50	1200		
≥2.50 < 3.20	1150		

The majority of the [CONFIDENTIAL TEXT DELETED – sales information] and [CONFIDENTIAL TEXT DELETED – sales information] grade steel that POSCO exported throughout the POI falls outside the strict width/thickness combinations that BlueScope appears to have produced or to be able to produce. In this regard, we refer you to Attachment 2 [CONFIDENTIAL ATTACHMENT], which indicates the specifications of the HGI that POSCO exported to Australia during the POI, and the closest thickness/width combination that BlueScope can produce.

While it is our primary submission that BlueScope cannot produce a product that is "like" POSCO's zero-spangled HGI, or "competitive" for exemption purposes, in the alternative we submit that POSCOs [CONFIDENTIAL TEXT DELETED – sales information] grades of steel, which are made to specifications that BlueScope's reduced spangled CGI cannot meet, should eventually be the subject of an exemption.

We request that this information be reflected in the recommendations to the Minister, and that Customs makes similar comments about the prospect that an exemption could be granted in accordance with Section 8(7) of the Anti-Dumping Act for all of POSCO's [CONFIDENTIAL TEXT DELETED – sales information] and [CONFIDENTIAL TEXT DELETED – sales information] grades of steel which are made to specifications that BlueScope's reduced spangled CGI cannot meet.

D Separate ascertained export prices should be calculated for CGI and HGI

Finally, POSCO is concerned that measures in relation to POSCO based on a single ascertained export price ("AEP") would be unreasonable, unrealistic and commercially damaging.

As POSCO has explained throughout this submission, there are many technical differences between CGI and HGI. In addition to those fundamental differences between the two forms of GI, HGI is relatively cheaper to produce then CGI. For example, during the period of investigation, POSCO sold its CGI to the Australian automotive industry for a price that was approximately [CONFIDENTIAL TEXT DELETED – figure] more expensive than that which it sold HGI to other industries.

This pricing differential can be evidenced in the export sales spread sheet POSCO provided as part of its response to the Exporter Questionnaire. CGI is marked as the product code "GB" and HGI is marked with the product code "LA". Based on the information in the export sales spread sheet, it is clear that average export price of CGI was approximately [CONFIDENTIAL TEXT DELETED –figure] more expensive than

the average export price of HGI over the period of investigation.

Currently, Customs has calculated a single AEP for determining the amount of prospective duty under securities required to be provided to Customs in accordance with the PAD. The problem with this approach is that is does not take into account the significant price disparity between HGI and CGI. As a result, the AEP is far too high on imports of HGI.

We consider that, in the above circumstances, it is appropriate to create a separate AEP for HGI. There are no descriptive or definitional problems in doing so. We respectfully request that separate AEPs be calculated and applied for HGI and CGI.[12]

E Request

On the basis of the information in this letter, we submit that the CEO must recommend to the Minister that:

- an exemption could ultimately be granted for POSCO's zero-spangle automotive GI under Section 8(7) of the Anti-Dumping Act;
- an exemption could ultimately be granted for POSCO's non-automotive zero-spangle HGI under Section 8(7) of the Anti-Dumping Act;
- an exemption could ultimately be granted for particular types of POSCO's non-automotive zero-spangle HGI under Section 8(7) of the Anti-Dumping Act; and
- a separate ascertained export price should be calculated for POSCO's HGI.

Yours sincerely

Alistair Bridges
Solicitor

[12] We note that an alternative formulation could be to calculate separate AEPs for automotive and non-automotive GI.