

26 February 2018

Mr Paul O'Connor  
Panel Member  
c/o Anti-Dumping Review Panel Secretariat  
GPO Box 2013  
Canberra City ACT 2601

Email: [ADRP@industry.gov.au](mailto:ADRP@industry.gov.au)

Dear Sir

## **Hot Rolled Coil exported from Japan, the Republic of Korea, Malaysia and Taiwan – Applications for review of a decision**

### I. Introduction

I refer to applications for the review of a decision by the former Assistant Minister/Parliamentary Secretary to the Minister for Industry, Innovation and Science by Chung Hung Steel Corporation (“Chung Hung”), Shang Chen Steel Co., Ltd (“Shang Chen”) and China Steel Corporation (“CSC”) (the ‘applicant’ companies), as announced by the ADRP on 29 January 2018.

The decision of the former Assistant Minister/Parliamentary Secretary was published on 18 December 2017.

The grounds for review of the decision are:

- (a) The Commission erred in finding that future exports by the applicant companies were likely to be exported at dumped prices in the absence of measures; and
- (b) The Commission erred in finding that future exports by the applicant companies were likely to lead to a recurrence of material injury in the absence of measures.

BlueScope Steel Limited (“BlueScope”) seeks to address the grounds for appeal as commonly identified by Chung Hung, Shang Chen and CSC.

### II. Ground 1 – Future exports at dumped prices

It is contended by the applicants’ that future exports of hot rolled coil (“HRC”) to Australia will not be at dumped prices should the measures be allowed to expire. The Anti-Dumping Commission (“the Commission”) determined that exports from the three Taiwanese cooperative exporters and all other exporters were at the following margins during the investigation period:

<b>Exporter</b>	<b>Margin</b>
Chung Hung Steel Corporation	-2.6 per cent
Shang Chen Steel Co., Ltd	-9.2 per cent
China Steel Corporation	-1.8 per cent
All other exporters	3.9 per cent

In assessing whether dumping will re-commence in the absence of measures, the Commission can only be guided by past performance. The Commission noted in Report No. 400 that export prices for China and Taiwan for HRC were the lowest of all source countries during the investigation period. It was further determined by the Commission that:

*“Whilst prices tend to fluctuate depending on the finish type of the goods, prices from Taiwan appear to more closely correlate to the current anti-dumping measures than HRC from any exporters from the other subject countries. This suggests that Taiwan export prices are frequently set by reference to the measures.”*

It was further observed by the Commission that when contrasting BlueScope’s selling prices with the sales achieved by importers, the Commission observed:

*“that there is very close price competition between BlueScope and importers when selling to common customers, by segment, grade and finish type. Importers of the goods from Taiwan and Korea appear to be the most price competitive.”*

The Commission’s comments confirm that BlueScope’s selling prices for locally produced HRC are competitive with the imports the subject of the anti-dumping measures – in particular, selling prices for exports from Taiwan and Korea. The observations also confirm that BlueScope’s selling prices are determined by import parity – with Taiwan selling prices the lowest of the countries the subject of the measures and aligned to the levels of the anti-dumping measures.

The applicant companies have conveniently ignored the strong correlation between the selling prices of goods from Taiwan – the largest source of imports the subject of measures and the second largest supplier overall into the Australian market.

The Commission’s conclusion that exporters in Taiwan would re-commence dumping should the measures be allowed to expire is well-founded. In the absence of measures it is highly probable and likely that the Taiwanese exporters (CSC, Shang Chen and Chung Hung) will price to match the lower Chinese export prices on the Australian market, resulting in price – effect injury to the Australian industry as BlueScope responds to hold sales volumes at reduced prices.

It cannot be ignored that in the event the measures are allowed to expire that the “benchmark” for exporters from Taiwan which is currently the anti-dumping measure will be substituted for the Chinese export prices.

The Australian industry, therefore, will be further exposed to a recurrence of dumping (at least by the Taiwanese exporters with the lowest negative dumping margins) and will be required to follow prices in a downward spiral to the level of Chinese exports to Australia.

The Commission has relied upon factual evidence including the level of the measures, the comparative level of Taiwanese export prices and the lower Chinese export prices on the Australian market. BlueScope submits that the Commission, therefore, could not have been satisfied that future export prices by Taiwanese producers would not be at dumped prices. Given this conclusion it is reasonable for the Commission to have concluded that future export prices from Taiwanese exporters would be at dumped prices should the measures be allowed to expire, as Taiwanese exporters match the lower selling prices of Chinese HRC exports to Australia.

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<sup>1</sup> Report No. 400, Section 7.3.2.5, P. 45.

BlueScope therefore requests the ADRP member to therefore dismiss the applicants' first ground of appeal that future export prices to Australia by Taiwanese exporters in the absence of measures would not be at dumped prices.

### III. Material injury is foreseeable and imminent

The applicants have further argued that injury from future exports to Australia by Taiwanese exporters is not 'foreseeable and imminent' and that a recurrence of material injury is not likely.

The Commission conducted an analysis of the impact of Taiwanese exports to Australia following the imposition of measures. The Commission observed that "*Exporters from Taiwan have gained a substantial proportion of the import market in Australia since the measures were imposed.*" Therefore, despite actual export volumes from Taiwan having decreased following the imposition of measures, the market share held by Taiwanese imports had increased. Additionally, the Commission noted that the three cooperative Taiwanese exporters (i.e. CSC, Chung Hung and Shang Chen) had *significant* excess capacity during the inquiry period (emphasis added).

BlueScope submitted to the Commission export pricing information for Taiwanese HRC exports into Vietnam. BlueScope noted that the Taiwanese export prices tracked the prices of Chinese exports. The Commission observed that the Taiwanese export prices to Vietnam were below export prices for Korea and Japan. The Taiwanese export data confirms that Taiwan is a key supplier of HRC in the region at low prices (certainly below the export prices from two other exporting-countries the subject of measures in Australia, being Korea and Japan).

In further examining the level of Taiwanese export prices into Australia, the Commission noted<sup>2</sup>:

*"The Commission has examined the prices of HRC exported to Australia from China during the inquiry period and found that they were at or below the prices from Taiwan in three of the four quarters of the inquiry period; further, exports from Taiwan and China account for the majority of imports into Australia. All of this strongly suggests that, in the absence of the current anti-dumping measures, Taiwan prices would be lowered to more directly compete with prices from China in order to gain greater market share."*

These findings confirm that HRC exports from Taiwan were at competitive prices with the lowest priced product in the market – China – during the 2016 investigation period. In three of the four quarters, Chinese prices were equal to or below the prices from Taiwan. This confirms that in at least one quarter during the investigation period (and for a second quarter the prices from Taiwan were at least equal to those from China) the selling prices for HRC exported from Taiwan was the **lowest** in the contested market.

The Commission's analysis further contrasted the selling prices of importers sourcing HRC from Taiwan with the Australian industry's selling prices. Importantly, the comparison involved goods with "*similar specifications sold to similar customers*". The Commission confirmed that "*a significant portion of the exports from Taiwan during the inquiry period, when sold in the contested market, undercut the prices obtained by BlueScope*".

It is evident from the Commission's comprehensive analysis that with anti-dumping measures in place, selling prices for HRC from Taiwan are at the lowest levels in the Australian market (with only selling prices for HRC exported from China not the subject of measures at lower levels in two quarters of the investigation period). The Commission also observed that Taiwanese HRC export prices tracked the anti-dumping measures

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<sup>2</sup> Ibid, P. 53.

during the inquiry period – that is, the export prices for the Taiwanese HRC were influenced by the level(s) of the applicable measures.

Taiwan HRC exports are also the subject of measures in the United States, with measures continued in 2014 and final determinations issued in October 2016 (for certain hot rolled steel products exported from Taiwan).

The HRC market in Australia is a price-sensitive market. Selling prices are set by imports – with the larger suppliers having the greatest influence (i.e. exports from Taiwan and China). The Commission has confirmed in its analysis that HRC export prices from Taiwan:

- Were aligned with the level of the anti-dumping measures during the inquiry period;
- Were at levels equal to or below the Chinese selling prices (not the subject of the measures) in the contested market in two of the four quarters of the investigation period;
- Undercut the Australian industry's selling prices (when compared on a model-by-model basis taking account of physical characteristics); and
- Increased market share following the imposition of measures at the expense of other countries the subject of the measures.

The findings support a conclusion that should the measures be allowed to expire on HRC exported from Taiwan, it is likely that the Australian industry manufacturing HRC would come under significant price pressure from Taiwanese HRC exports that would be at dumped prices as the Taiwanese exporters reduce price to meet competition from Chinese HRC exports. The dumping would again result in injury or, a threat of injury, to the Australian industry that is material. The expiration of the measures on HRC exported from Taiwan, therefore, would result in a recurrence of material injury that the measures are intended to prevent.

It is noted that the applicants in each of their respective appeals have argued similar positions that the Commission has not adequately addressed the impact of "other" possible causes of material injury. BlueScope disagrees with these suggestions. In a Division 6A inquiry into the continuation of the measures, the Commission is not required by the legislative provisions to examine the impact of any other possible causes of injury as it does in an initial investigation resulting in the imposition of measures. The legislative requirement in a continuation investigation is that:

*"269ZHF (2) The Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent."*

In investigation 400 the Commission has examined the impact of the potential expiration of the measures on HRC exports from Taiwan. The Commission is satisfied that given the trends in pricing of HRC imports from Taiwan on the Australian market, and the increased market share held by exports from Taiwan that have displaced exports from other countries the subject of measures, that the likely expiration of the measures on HRC exports from Taiwan would likely lead to a recurrence of the dumping and material injury that the measures are intended to prevent.

BlueScope supports the Commission's approach and rationale at arriving at this conclusion. BlueScope does not consider that the applicant companies have demonstrated that the Commission has erred in its approach as to the future threat of dumping and material injury should the measures be allowed to expire.

BlueScope requests the ADRP Member to dismiss the applicants' Ground 2 request for review of the Assistant Minister/Parliamentary Secretary's decision of 18 December 2017 in respect of HRC exported from Taiwan.

IV. Conclusions/Recommendations

The applicants' request for review of the Assistant Minister/Parliamentary Secretary's decision of 18 December 2017 concerning the continuation of anti-dumping measures on HRC exported from Taiwan is the correct and preferred decision. The applicants (i.e. CSC, Shang Chen and Chung Hung) have not demonstrated that the Commission has erred in its recommendation to the Assistant Minister/Parliamentary Secretary to continue the measures on HRC exports from Taiwan.

It is requested that the ADRP Member therefore reject the applicants' request for review that the Assistant Minister/Parliamentary Secretary erred in his acceptance of the recommendations of the likely future threat of dumping and material injury from HRC exported from Taiwan.

If you have any questions concerning this application, please do not hesitate to contact me on (02) 4240 1214, or BlueScope's representative Mr John O'Connor on (07) 3342 1921.

Yours faithfully,



Chad Uphill  
Senior Commercial Specialist – International Trade Affairs