



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**TERMINATION OF PART OF
INVESTIGATIONS**

TERMINATION REPORT NO. 370

**ALLEGED DUMPING OF ZINC COATED
(GALVANISED) STEEL EXPORTED FROM THE
REPUBLIC OF INDIA (INDIA), MALAYSIA AND THE
SOCIALIST REPUBLIC OF VIETNAM (VIETNAM)**

AND

**THE ALLEGED SUBSIDISATION OF GALVANISED
STEEL EXPORTED FROM INDIA AND VIETNAM**

July 2017

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ABBREVIATIONS

| | |
|-----------------------------|--|
| AUD | Australian dollars |
| ABF | Australian Border Force |
| the Act | <i>Customs Act 1901</i> |
| ADN | Anti-Dumping Notice |
| BlueScope | BlueScope Steel Limited |
| the Commission | Anti-Dumping Commission |
| the Commissioner | Commissioner of the Anti-Dumping Commission |
| CTM | Cost to make |
| CTMS | Cost to make and sell |
| CTS | Cost to sell |
| EPR | Electronic public record |
| FIS | Free into store |
| FOB | Free on board |
| the goods | the goods the subject of the application (also referred to as the goods under consideration) |
| Hoa Sen | Hoa Sen Group |
| the investigation period | 1 July 2015 to 30 June 2016 |
| India | The Republic of India |
| Nam Kim | Nam Kim Steel Joint Stock Company |
| the Parliamentary Secretary | the Parliamentary Secretary to the Minister for Industry and Science |
| SEF | Statement of essential facts |
| Vietnam | the Socialist Republic of Vietnam |

1. Background

1.1 Introduction

This Termination Report (TER 370) relates to the investigation by the Anti-Dumping Commission (the Commission) of the allegations made by BlueScope Steel Limited (BlueScope) that certain zinc coated (galvanised) steel¹ exported to Australia from the Republic of India (India), Malaysia and the Socialist Republic of Vietnam (Vietnam) at dumped prices and from India and Vietnam at subsidised prices has caused material injury to the Australian industry producing like goods.

This report sets out the facts on which the Anti-Dumping Commissioner (the Commissioner) based the decisions to terminate:

- part of dumping investigation 370 in so far as it relates to certain exporters from Vietnam; and
- the subsidy investigation in relation to Vietnam.

1.2 Findings

In accordance with subsection 269TDA(2) of the *Customs Act 1901* (the Act),² the Commissioner must terminate an investigation if the dumping margin and/or countervailing subsidisation is negligible as determined under the Act. The Commissioner is satisfied that in relation to galvanised steel;

- exports by Hoa Sen Group (Hoa Sen) and Nam Kim Steel Joint Stock Company (Nam Kim) from Vietnam during the investigation period were not dumped; and
- countervailable subsidies have been received in respect of some or all of the goods exported by all exporters from Vietnam during the investigation period, but the countervailable subsidies never exceeded the negligible level of countervailable subsidy of 2% relevant to Vietnam.

Therefore, the Commissioner has decided to terminate, in accordance with subsection 269TDA(2), the following parts of the investigation:

- the dumping investigation in so far as it relates to Hoa Sen and Nam Kim; and
- the subsidy investigation in so far as it relates to all exporters from Vietnam.

As a result of these findings, on 14 July 2017, the Commissioner terminated those parts of the investigations. ADN 2017/98 which is published on the Commission's website³ relates to these terminations.

¹ Refer to the full description of the goods in Section 4.1 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.

³ www.adcommission.gov.au

1.3 Application of law to facts

1.3.1. Authority to make decision

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

1.3.2. Application and initiation

On 15 August 2016, BlueScope lodged an application for the publication of a dumping duty notice in respect of galvanised steel exported to Australia from India, Malaysia and Vietnam, and a countervailing duty notice in respect of galvanised steel exported from India and Vietnam (collectively referred to as the nominated countries).

BlueScope alleged in its application that the Australian industry suffered material injury caused by galvanised steel exported to Australia from the nominated countries at dumped and/or subsidised prices. BlueScope alleged that the industry had been injured through:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced employment;
- reduced capacity utilization;
- reduced return on investment; and
- reduced investment.

Subsequent to receiving further information and data on 29 August, 2 September, 5 September, 14 September and 4 October 2016 from BlueScope and having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping and subsidisation of galvanised steel on 7 October 2016. Public notification of initiation of the investigation was also made on 7 October 2016 and is available on the Commission's website.

ADN No. 2016/105 provides further details relating to the initiation of the investigation, including that:

- the investigation period⁴ for the purpose of assessing dumping and subsidisation is 1 July 2015 to 30 June 2016; and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 July 2012.⁵

⁴ As that term is defined in subsection 269T(1).

⁵ The purpose of the injury period is to allow the Commission to identify and examine trends in the market which in turn assists the Commission in its examination of whether material injury has occurred over the investigation period.

1.4 Statement of Essential Facts and Preliminary Affirmative Determination

A combined report setting out the statement of essential facts⁶ and preliminary affirmative determination for this investigation was published on the Commission's website on 31 May 2017. In formulating the combined SEF/PAD, the Commissioner had regard to BlueScope's application, submissions received after the date of initiation of the investigation and information obtained during the course of verification visits to the Australian industry, exporters, importers and end-users.

The combined SEF/PAD 370 should be read in conjunction with this report.

1.4.1. Submissions to SEF 370

The Commission received submissions in response to the SEF/PAD 370 from:

- (i) the Government of Vietnam (GOV) in relation to the subsidy investigation; and
- (ii) BlueScope in relation to Hoa Sen and Nam Kim's normal value and dumping margin calculations.

The public record version of these submissions are available on the Commission's website.

1.5 Relevant Legislation

Subsection 269TDA(1) of the Act provides:

If:

- (a) application is made for a dumping duty notice; and*
- (b) in an investigation, for the purposes of the application, of an exporter to Australia of goods the subject of the application, the Commissioner is satisfied that:*
 - (i) there has been no dumping by the exporter on any of those goods: or*
 - (ii) there has been dumping by the exporter of some or all of those goods, but the dumping margin for the exporter, or each such dumping margin, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2%;*

the Commissioner must terminate the investigation so far as it relates to the exporter.

Subsection 269TDA(2) of the Act provides:

That the Commissioner must terminate the investigation if countervailable subsidisation is negligible.

Subsection 269TDA(16) of the Act relevantly provides:

For the purpose of this section, a countervailable subsidy received in respect of goods exported to Australia is negligible if:

⁶ SEF 370 and PAD 370 refers

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- (a) the country of export is not a developing country and the subsidy when expressed as a percentage of the export price of the goods, is less than 1%; or*
- (b) the country of export is a developing country but not a special developing country and the subsidy, when expressed as a percentage of the export price of the goods, is not more than 2%; or*
- (c) the country of export is a special developing country and the subsidy, when expressed as a percentage of the export price of the goods, is not more than 3%.*

2 The goods under consideration

2.1 Goods description

The goods the subject of the application are:

'flat rolled iron or steel products (whether or not containing alloys) that are plated or coated with zinc exported to Australia from India, Malaysia and Vietnam'.

These goods are generically called 'galvanised steel'. Galvanised steel of any width is included in this application.

Exclusions

These goods do not include painted galvanised steel, pre-painted galvanised steel, electro-galvanised steel, corrugated galvanised steel or aluminium zinc alloy coated or plated steel.

2.1.1. Additional information

BlueScope's application included additional information to support its description of the goods, as follows:

The goods include the same categories of goods as identified in Trade Measures Report No. 190 and 193, however, this application also includes goods that are alloyed (i.e. with minor additions, e.g. boron, chromium, etc). The goods the subject of this application include all zinc coated product options, including all grades/models of zinc coated steel, all coating mass classes and all surface treatments.

Trade or further generic names often used to describe the goods the subject of the application include:

- *"GALVABOND®" steel*
- *"ZINCFORM®" steel*
- *"GALVSPAN®" steel*
- *"ZINCHITEN®" steel*
- *"ZINCANNEAL" steel*
- *"ZINCSEAL" steel*
- *Galv*
- *G/I*
- *Hot Dip Zinc coated steel*
- *Hot Dip Zinc/Iron alloy coated steel*
- *Galvanneal*

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). The common coating masses used for zinc coating are: Z350, Z275, Z200/Z180, Z100, and for zinc/iron alloy coatings are ZF100, ZF80 and ZF30 or equivalents based on international standards and naming conventions.

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Surface treatments can include but not be limited to; 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).

There are a number of relevant International Standards for zinc coated products that cover their own range of products via specific grade designations, including the recommended or guaranteed properties of each of these product grades.

These relevant standards are noted below in Table 1 “Relevant International Standards for zinc coated 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 |

Table 1 - Relevant International Standards for zinc coated steel

2.2 Tariff classification

BlueScope’s application states that galvanised steel is classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7210.49.00 (statistical codes 55, 56, 57 and 58);
- 7212.30.00 (statistical code 61);
- 7225.92.00 (statistical code 38); and
- 7226.99.00 (statistical code 71).

The Trade Policy and Advice division of Australian Border Force (ABF) has confirmed that galvanised steel is correctly classified to these tariff subheadings. The Commission notes that the goods are defined by the description, not the tariff classification.

The general rate of duty is currently 5% for goods imported under these tariff subheadings. However, imports from India, Malaysia and Vietnam are subject to a

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DCS⁷ duty rate which is 0% for non-alloy steel under 7210.49.00 and 7212.30.00 and is 4% for 'other alloy' steel under 7225.92.00 and 7226.99.00.

The Commission notes there are numerous tariff concession orders applicable to the relevant tariff subheadings.

⁷ 'DCS' is a code applied to classes of countries and places in relation to which special rates apply as specified in Part 4 of Schedule 1 to the *Customs Tariff Act 1995*.

3 Dumping investigation

3.1 Finding

The Commissioner has found that during the investigation period:

- galvanised steel exported to Australia from India, Malaysia and Vietnam (except by Hoa Sen Group and Nam Kim Steel Joint Stock Company) was dumped;
- the volume of dumped goods from these countries, and the dumping margins for all exporters (except Hoa Sen Group and Nam Kim Steel Joint Stock Company) were not negligible;
- a particular market situation does not exist in the domestic galvanised steel market in Vietnam, such that selling prices in that market are not suitable for normal value purposes; and
- the cost of HRC in the Vietnamese exporters' records reasonably reflect competitive market costs.

3.2 Legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG. One of the matters set out under section 269TG that the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively. Details of the export price and normal value calculations for Hoa Sen and Nam Kim are set out in this chapter.

Dumping margins are determined under section 269TACB. For the purposes of calculating dumping margins, the Commission compared quarterly weighted average export prices to the corresponding quarterly weighted average normal value in the investigation for each exporter.

3.3 Dumping assessment – Hoa Sen Group (Vietnam)

3.3.1. Verification

The Commission conducted an in-country visit to Hoa Sen's facility in Vietnam to verify the information submitted in its response to the exporter questionnaire. The visit report prepared by the Commission for Hoa Sen is available on the Commission's website.⁸

⁸ Refer EPR 370/80.

3.3.2. Export price

The Commission considers, in respect of Australian export sales during the investigation period, that:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were arms length transactions.

The Commission found that the goods have been purchased by the importer from the exporter, and therefore the export price has been calculated using subsection 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

3.3.3. Normal value

Normal values were established in accordance with subsection 269TAC(1) of the Act, using Hoa Sen's quarterly weighted average domestic invoice prices for like goods, by model, where those sales were in the ordinary course of trade (OCOT), and were sold in sufficient volumes.

For other models, where there were insufficient sales made in the OCOT in the domestic market, the normal value has been 'constructed' in accordance with subsection 269TAC(2)(c), using the cost to make (CTM) for Australian export sales; plus selling, general and administration (SG&A) applicable to goods sold domestically; plus profit of domestic OCOT sales.

To ensure the normal values were properly compared to export prices, it was necessary to make adjustments, in accordance with subsection 269TAC(8), for differences in:

- inland freight, handling and packaging expenses;
- credit terms; and
- bank charges.

3.3.4. Dumping margin

As stated above in paragraph 4.2, the dumping margin for Hoa Sen was established in accordance with subsection 269TACB(2)(a), by comparing quarterly weighted average export prices (at free on Board (FOB) terms) to corresponding quarterly weighted average normal values for the investigation period.

The dumping margin for Hoa Sen is **negative 0.7%**.

3.4 Submissions – Pre SEF

3.4.1. Normal Value

(i) Use of section 269TAC(1)

In its submission, BlueScope claims that Hoa Sen's normal value assessment by the Commission should include all domestic sales of 'like goods', and that the correct OCOT test should involve all domestic sales of like goods. In particular:

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- a. use of domestic sales from Hoa Sen's 'Di An' Branch was not appropriate for determining normal values because paragraph 269TAC(1) of the Act requires the Parliamentary Secretary to consider all domestic sales of like goods sold in the ordinary course of trade for home consumption in the country of export. The limiting factors within the paragraph includes determining whether the like goods are sold in the ordinary course of trade – not the selection of certain domestic sales by a “branch” within the exporter’s network of operations; and
- b. it was not open to the Commission to selectively request a listing of domestic sales by one branch. BlueScope submitted that subsection 269TAC(1) requires the Parliamentary Secretary to examine all domestic sales of like goods by Hoa Sen. In other words, all of Hoa Sen’s domestic sales of like goods (including all 15 branches) must be considered by the Parliamentary Secretary as to whether the sales have been made in the ordinary course of trade prior to discounting relevant sales from normal value consideration.
- c. Furthermore, BlueScope submitted that the verification team should have determined whether the cost of production associated with the sales of galvanised steel to subsidiaries was the same, prior to further value-adding, as that used for external sales.

(ii) *Adjustments to Normal value for exports via a sales intermediary*

BlueScope also submitted that because the export sales to Australia were via a customer “not based in Australia”, with a third party consignee located in Australia, the transactions require an upwards adjustment to Hoa Sen’s normal value.

(iii) Adjustment for credit

BlueScope submitted that while the Commission has made a downward adjustment for domestic credit, there had not been an upward adjustment for export credit associated with Telegraphic Transfer (TT) terms.

3.4.2. The Commission’s Assessment

(i) Use of section 269TAC(1)

The Commission does not disagree with BlueScope’s submission that all sales can be relevant to determining a normal value using section 269TAC(1). However, there are cases where the whole population of sales are not used for a range of reasons. One example is the common situation of having to determine a normal value for particular models, where it becomes necessary to use particular sales that relate to matching models on the exporter’s domestic market. In such a case, with model matching, the entire population of all sales of like goods is not used under section 269TAC(1).

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The exporter visit report for this investigation stated that “*Hoa Sen Group’s domestic sales listing identified sales to two levels of trade, subsidiaries (related parties) and end user. In relation to subsidiary sales, Hoa Sen Group demonstrated that the subsidiaries purchasing the galvanised steel were further processing it for sale within the domestic market as building products that no longer met the goods description*”.

Hoa Sen demonstrated that domestic end user sales fell into two categories – sales to end users through the branch network, and sales directly to end users. The domestic sales listing did not, however, identify which category each transaction fell into.

As a result of these issues, the Commission has determined that the data presented by Hoa Sen in the original domestic sales listing was not appropriate to calculate normal values. To that end, the Commission requested Hoa Sen to provide a line-by-line listing of all domestic sales of galvanised steel made by its 15 largest branches to unrelated customers in the domestic market.

From this revised listing the Commission determined that the *Di An* branch was by far the largest branch by volume of sales. Hoa Sen also confirmed that *Di An* was a warehouse facility and, as such, all galvanised steel sold from this branch would continue to meet the goods description as it entered the domestic market.

The Commission determined that domestic sales of galvanised steel by the *Di An* branch were appropriate for calculating normal values.

The approach taken by the Commission in this case followed a similar methodology to an earlier investigation involving Hoa Sen, Investigation 249 (INV 249) concerning the same goods. In INV 249, the Commission explained why all domestic sales were not relevant to the determination of normal value. In this instance Hoa Sen had broken down domestic sales to three types of customers, *a related party; related branches; and contractors/end users and traders*.

In relation to those sales by the third category, these were found to be not like goods to the galvanised steel under investigation and hence, were not used in the normal value calculations. This left the ‘sales’ to branches (service centres) as the sales that may possibly be relevant to a normal value. However, ‘sales’ to branches were within the broader Hoa Sen Group and therefore sales to related parties. These branches largely on-sold, after a further process, product that was *not* the goods subject to the investigation. These sales of other goods were found to be a significantly high proportion of their total sales.

Further to this, sales of the galvanised steel to all unrelated customers from all branches were not able to be extracted. The Commission determined that in these particular circumstances sales by the *Di An* Branch to unrelated customers were the most relevant because all of these sales were in relation to the like goods. The proportion of the sales by *Di An* Branch (as a wholesaler, not a processor) to total branch sales to unrelated domestic customers was found to be a reasonable proportion of sales for consideration. In testing this data, it was found that there was minimal variance between the weighted average price per kilogram for the *Di An* branch compared to the weighted average price per kilogram for other branches.

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In INV 249, the Commission was satisfied that the sales data for Di An Branch comprised a significant enough proportion of the company's domestic sales of like goods that it could be relied upon for the purposes of calculating normal values. At that time, the Commission had also visited the Di An Branch in order to be satisfied that further processing was not undertaken prior to sale.

In relation to the current investigation, the Commission has noted during INV 249, its reasons why the Commission had not obtained information in relation to all sales. The Commission considers that the particular circumstances of Hoa Sen are sufficient reason why the normal value under section 269TAC(1) should be based on the particular data set referred to, and it has not accepted BlueScope's submission in relation to this matter.

In relation to BlueScope's claims about ordinary course of trade, the Commission notes that the cost of production was the same for all customers. For the sales that were used for determining normal value appropriate selling general and administrative expenses were added to determine the costs to make and sell.

(ii) *Adjustments to Normal value for exports via a sales intermediary*

BlueScope stated that an upward adjustment to normal value was required because some export sales had been made where a third party was involved. The Commission did not make any adjustment of this type because the export price used was the price agreed between the import customer in Australia and the exporter Hoa Sen (not some other price). Furthermore, the Commission noted that during the investigation period such sales represented only a small proportion of all export sales to Australia by Hoa Sen.

(iii) *Adjustment for credit*

The Commission notes BlueScope's comments regarding adjustment for credit, however the Commission has not made the upward adjustment requested as it has treated the export sales as equivalent to cash terms and there is no evidence that suggests that additional costs were incurred. Accordingly, the only substantive adjustment for domestic credit terms (this was a downwards adjustment) was made.

3.4.3. Submissions – Post SEF

In response to SEF 370, BlueScope submitted that:

- (i) SEF 370 provides no indication (or detail) as to the percentage of Hoa Sen's sales (by model) that were determined under section 269TAC(1) in contrast to those made under subsection 269TAC(2)(c); and
- (ii) there are number of variables impacting the Hoa Sen data that the Commission has unwittingly accepted in accepting the data as reliable (including the failure to secure all domestic sales of galvanised steel by the Hoa Sen). These variables include:
 - whether the goods considered to be like goods were in fact alike and not further value-added products;
 - whether the galvanised steel products considered to be like goods could be readily identified by model (or grade) reference;

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- what was the basis for selecting the “top five customers”? Was it on total volume or volume of sales of galvanised steel (considered to be like goods)?
 - was any testing undertaken by the Commission of model comparisons across the five selected customers? and
 - in contrasting the Di An branch with the sales for the top five customers, was the Di An branches sales included in the “top 5 customers” or excluded?
- (iii) The selected data relied upon by the Commission cannot be considered ‘safe’ and ‘reliable’ as being representative of Hoa Sen’s total domestic sales of galvanised steel. It should also be noted that the inclusion of all domestic sales by Hoa Sen from all of its related branches would increase the instances of normal value determination under section 269TAC(1) (and therefore likely reduce the instances of normal value determination under subsection 269TAC(2)(c)).

3.4.4. The Commission’s Assessment

The Commission is satisfied that sales by Di An Branch were like goods. The exporter verification in relation to Hoa Sen sets out that ‘Di An’ Branch was examined carefully and models according to the relevant criteria were identified. The verification team performed all of the usual calculations such as ordinary course of trade and sufficiency of sales.

SEF 370 noted that the top five customers were selected according to volume, and the Commission has provided a detailed explanation in the SEF (which is also included in section 4.4.3 of this report) which explains why a particular branch (Di An) was selected.

Furthermore, the top five branches represented a significant proportion of all domestic sales (well over 50%). It was been determined that Di An was the largest of the top five. None of the remaining four of the top five came close to Di An’s total sales. For those normal values where the normal value has been constructed, the Commission has added a rate of profit using data from sales in the ordinary course of trade.

The Commission has determined that the selected sales were suitable for a normal value.

3.5 Dumping Assessment - Nam Kim (Vietnam)

3.5.1. Verification

Nam Kim provided complete responses to the exporter questionnaire. For Nam Kim, exporter-specific export price, normal value and dumping margin, have been calculated using the information submitted in its Exporter Questionnaire response, where possible.

As there was no on-site verification done for Nam Kim, the Commission has tested the data for relevance and reliability by comparing the export price to information contained in the ABF’s import database and by benchmarking key variables (such as costs, price and adjustments) to the verified information provided by other cooperating exporters from Vietnam in the current case.

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Having regard to the tests for relevance and reliability, the Commission is satisfied that the information provided in the responses to the Exporter Questionnaire can be relied upon to determine Nam Kim's dumping margin.

Nam Kim's dumping and subsidy margin calculation report is available on the Commissions website.⁹

3.5.2. Export price

The Commission considers, in respect of Australian export sales during the investigation period, that:

- the goods have been exported to Australia otherwise than by the importer; and
- the purchases of the goods by the importer were arms length transactions.

The Commission found that the goods have been purchased by the importer from the exporter, and therefore the export price has been calculated using subsection 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

3.5.3. Normal value

The Commission determined that there was an absence of sales of like goods in the domestic market that would be relevant for the purpose of determining a price under subsection 269TAC(1).¹⁰ As such, normal values were established in accordance with subsection 269TAC(2)(c), using Nam Kim's quarterly weighted average CTM for Australian export sales, plus its quarterly weighted average CTS for domestic sales, plus an amount for profit.¹¹

To ensure the normal values were properly compared to export prices, it was necessary to make adjustments, in accordance with subsection 269TAC(9), for differences in:

- inland freight, handling and packaging expenses; and
- credit costs

3.5.4. Dumping margin

The dumping margin for Nam Kim was established in accordance with subsection 269TACB(2)(a), by comparing quarterly weighted average export prices (at FOB terms) to corresponding quarterly normal values for the investigation period. The dumping margin for Nam Kim is **negative 8.4%**.

3.5.5. Submissions – Post SEF

In response to SEF 370, BlueScope submitted that:

⁹ Refer EPR 370/081

¹⁰ Subparagraph 269TAC(2)(a)(i).

¹¹ Calculated by taking profit on (profitable) domestic sales, as a proportion of the CTMS.

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- (i) The Commission did not conduct a verification visit with Nam Kim and relied upon information in Nam Kim's exporter questionnaire response ("EQR").
- (ii) It is not clear from SEF 370 whether the Commission considered using domestic selling price information from the other Vietnamese exporters Hoa Sen or China Steel Sumikin Vietnam Joint Stock Company (Vietnam) ("CSSV") instead of constructing a normal value pursuant to 269TAC(2)(c).
- (iii) It is furthermore not clear from the SEF 370 whether the Commission contrasted Nam Kim's constructed normal values with those determined for other exporters in Vietnam under section 269TAC(1) to establish whether Nam Kim normal values.

3.5.6. The Commission's Assessment

The Commission's findings are as follows:

- (i) While the Commission has not undertaken an onsite verification of Nam Kim, the Commission conducted a detailed analysis and comparison of the data submitted by Nam Kim with the data verified on sight by the Commission in relation to two cooperating exporters from Vietnam (Hoa Sen and China Steel Sumikin Vietnam Joint Stock Company) before accepting it. This is explained in the Nam Kim - dumping and subsidy margin calculation report.¹²
- (ii) The Commission has found that only one model of galvanised steel was constructed pursuant to subsection 269TAC(2)(c) which was due to low volumes of domestic sales for that particular model. As detailed in the dumping and subsidy margin calculation report referred to above, the Commission did not consider using other Vietnamese exporters domestic selling prices pursuant to 269TAC(1), as Nam Kim had domestic sales of like goods.
- (iii) The particular legislative provision BlueScope refers to in its submission is only available if like goods are not sold by the exporter on the domestic market. Because of low volumes of the particular model, the Commission relied on subsection 269TAC(2)(a)(i) to construct the normal value for that model.

Normal values for all co-operative exporters were compared with each other for the purpose of calculating the un-cooperative rate as detailed in SEF 370. This analysis included comparing Nam Kim's normal value with those determined for other exporters in Vietnam.

¹² EPR No. 081 refers

4 Countervailing investigation - Vietnam

4.1 Findings

The Commissioner finds that during the investigation period countervailable subsidies have been received by some exporters of galvanised steel. However, the countervailable subsidisation was determined to be less than 2 per cent of the export price, and therefore negligible pursuant to paragraph 269TDA(16)(b) of the Act.

The Commissioner proposes to terminate the subsidy investigation in relation to all exports of galvanised steel from Vietnam in accordance with subparagraph 269TDA(2)(b)(ii).

If the country of export is a developing country but not a special developing country, a countervailable subsidy received is negligible if the subsidy is not more than 2 per cent when expressed as a percentage of the export price of the goods. Vietnam is a developing country as defined in subsection 3(1) of the *Customs Tariff Act 1995* (the Tariff Act).

The Commissioner relies on this classification when applying section 269TDA. Accordingly, where exporters from Vietnam receive countervailable subsidies of not more than 2 per cent of their export price, subsection 269TDA(2) requires that the subsidy investigation be terminated insofar as it relates to those exporters.

4.2 Legislative requirement

Subsection 269T(1) defines a 'subsidy' as follows:

"subsidy", in respect of goods exported to Australia, means:

(a) a financial contribution:

(i) by a government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that government is a member; or

(iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that involves:

(iv) a direct transfer of funds from that government or body; or

(v) the acceptance of liabilities, whether actual or potential, by that government or body; or

(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or

(vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or

(viii) the purchase by that government or body of goods or services; or

(b) any form of income or price support as referred to in Article XVI of the *General Agreement on Tariffs and Trade 1994* that is received from such a government or body;

If that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.

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This reflects Article 1.1 of the Agreement on Subsidies.¹³

Section 269TAAC of the Act defines a countervailable subsidy as follows:

(1) For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.

(2) Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:

- (a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or*
- (b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or*
- (c) if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or*
- (d) if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.*

(3) Subject to subsection (4), a subsidy is not specific if:

- (a) eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and*
- (b) eligibility for the subsidy is automatic; and*
- (c) those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and*
- (d) those criteria or conditions are strictly adhered to in the administration of the subsidy.*

(4) The Parliamentary Secretary may, having regard to:

- (a) the fact that the subsidy program benefits a limited number of particular enterprises; or*
- (b) the fact that the subsidy program predominantly benefits particular enterprises; or*
- (c) the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or*
- (d) the manner in which a discretion to grant access to the subsidy has been exercised;*

determine that the subsidy is specific.

¹³ WTO Anti-Dumping Agreement and Agreement on Subsidies and Countervailing Measures refers

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(5) In making a determination under subsection (4), the Parliamentary Secretary must take account of:

- (a) the extent of diversification of economic activities within the jurisdiction of the subsidising authority; and*
- (b) the length of time during which the subsidy program has been in operation.*

Sections 269TACC and 269TACD concern determinations by the Parliamentary Secretary whether a benefit has been conferred by a financial contribution or price support, and the amount of this benefit. Generally, the existence of a benefit is determined by comparison with a benchmarked market-place, or if it involves claims of a benefit received from revenue foregone, from a comparison of the actual tax rate applied to the tax rates of the country in question.

4.3 Investigated programs

BlueScope's application alleges that Vietnamese exporters of galvanised steel benefited from a total of 19 countervailable subsidies. The alleged subsidies related to:

- grants;
- preferential Import tariff policies; and
- income taxation incentives.

To assess these programs in relation to galvanised steel exported to Australia, the Commission included questions relating to each program in a questionnaire sent to the Government of Vietnam (GOV), and exporter questionnaires to all known exporters of galvanised steel from Vietnam, shortly after initiation of the investigation. A public record version of the GOV's response and responses received from cooperating exporters from Vietnam are available on the Commission's website.

4.4 The Commission's assessment of subsidy programs

The Commission has found that 3 of the 19 alleged countervailable subsidies have been received in respect of galvanised steel exported to Australia from Vietnam.

4.4.1 Summary of countervailable subsidy programs

The Commissioner found that for programs numbers 1, 16 and 18, some of the Vietnamese exporters cooperating in this investigation received financial contribution, income support and/or the price support conferring a benefit. For each of these three programs, the Commission found a legal basis, eligibility criteria and noted that the benefit provided by the GOV was specific to galvanised steel. As such the Commission found that programs 1, 16 and 18 were countervailable subsidies.

A detailed analysis of all programs investigated (including programs 1, 16 and 18) by the Commission is at **Non-Confidential Attachment 1**.

The findings in relation each program investigated are outlined in the table 2 below.

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| Program number | Program Title | Program type | Countervailable in relation to galvanised steel |
|-----------------------|--|---------------------|--|
| 1 | Preferential Import Tariff Rates contingent upon Localisation Ratios with respect to products and Parts of Mechanical-Electric-Electronic Industries (updating Program II of Notification of Subsidies period 2003-2004) | Tariff Policy | Yes |
| 2 | Support for the Implementation of Projects Manufacturing Priority Industrial Products (Updating Programme III of 2003-2004) | Grant | No |
| 3 | Investment Incentives Contingent upon Export Performance For Domestic Businesses (Updating Programme IV of 2003-2004) | Grant | No |
| 4 | Other Investment Incentives for Domestic Businesses (Updating Program V of Period 2003-2004) | Grant | No |
| 5 | Investment Incentives Contingent upon Export Performance for Foreign Invested Enterprises (Updating Programme VI of the Period 2003-2004) | Grant | No |
| 6 | Other Investment Incentives for Foreign Invested Enterprises (Updating Programme VII for Period 2003-2004) | Grant | No |
| 7 | Preferential Investment Credit for Development Contingent upon Export Criteria (Updating Programme VIII of Period 2003-2004) | Grant | No |
| 8 | Preferential Development Credit for Investment Contingent Upon Localisation Ratios (Updating Programme IX of Period 2003-2004) | Grant | No |
| 9 | Other Preferential Investment Credit for Development (Updating Program X of Period 2003-2004) | Grant | No |
| 10 | Export Promotion (Updating Program XII of Period 2003-2004) | Grant | No |
| 11 | Trade Promotion (Updating of Programme XIII of Period 2003-2004) | Grant | No |
| 12 | Support for Mechanical Products (Updating Program XV of Period 2003-2004) | Grant | No |
| 13 | Support for Shipbuilding Industry (Updating of Programme XV of Period 2003-2004) | Grant | No |
| 14 | Assistance for Commercial Development in Mountainous, Island and Ethnic Minority Areas (Updating Programme XVI of Period 2003-2004) | Grant | No |

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| | | | |
|----|---|---------------|-----|
| 15 | Assistance to Enterprises Facing Difficulties Due to Objective Reasons (Updating of Programme XVII of Period 2003-2004) | Grant | No |
| 16 | Incentives for Investment Projects in Science and Technology (Updating Programme XVIII of Period 2003-2004) | Grant | Yes |
| 17 | Preferential Import Tariff Rates for enterprises investing in regions or sectors entitled to investment incentives | Tariff Policy | No |
| 18 | Incentives on corporate income tax for enterprises operating in regions or sectors entitled to incentives | Tax Policy | Yes |
| 19 | Incentives on Non-Agricultural Land Use Tax to encourage enterprises to invest in sectors or regions which require investment | Tax Policy | No |

Table 2: List of subsidy programs investigated for Vietnam

4.5 Subsidy margins

4.5.1. Cooperative exporters

The Commission found that the cooperative exporters received countervailable subsidies under the programs noted in the tables above.

4.5.2. Subsidy

The amount of benefit received has been attributed to each unit of galvanised steel (per tonne) using volume of sales of the goods by each cooperative exporter.

Exporter specific subsidy margins have been calculated and the amount of benefit is expressed as a percentage of export price for each selected exporter, for each countervailable program.

Table 3 below shows the subsidy margin calculations for Vietnamese cooperative and uncooperative exporters of galvanised steel:

| Exporter / manufacturer | Subsidy margin |
|--|-----------------------|
| Hoa Sen | 0.0% |
| CSVN | 0.0% |
| Nam Kim | 0.7% |
| <i>Uncooperative and All Other Exporters</i> | 0.7% |

Table 3 – Vietnamese exporter’s subsidy margins

The Commission’s finding in relation to each program investigated (including the method of calculation of subsidy margins) for Vietnam are outlined in **Non-Confidential Attachment 1**.

4.5.3. Submissions – Pre SEF

4.1.1.2 Unaccounted subsidy programs – Hoa Sen Group

BlueScope has submitted that the GOV has provided a number of subsidies to promote capital investment by corporate entities. BlueScope further submitted that Hoa Sen had invested in a galvanising line due to come on-stream in May 2016, and that it is therefore inconceivable that Hoa Sen did not benefit from such a subsidy program, as stated in the exporter visit report.

4.1.1.2 The Commission’s Assessment

The Commission visited Hoa Sen’s premises in Vietnam to verify information provided by the Company. During the verification, the Commission did not find any evidence which suggests that Hoa Sen did benefit from any subsidy promoting capital investment.

4.5.4. Submissions – Post SEF

In response to SEF 370 the GOV submitted that it:

- welcomes the countervailing findings set out in SEF 370;
- requests that the countervailing investigation against Vietnamese exporters be terminated immediately;
- confirms that Vietnamese exporters in relation to this investigation and in relation to a recent investigation into aluminium extrusions are not benefitting from alleged countervailing subsidies; and
- encourages the Commission to have regard to evidence gathered during these investigations in carefully assessing whether future countervailing applications involving Viet Nam contain sufficient evidence to warrant initiation.

The Commission has noted GOV’s comments made in its submission.

4.5.5. Commission’s consideration

The Commission finds that galvanised steel exported by some Vietnamese exporters during the investigation period was subsidised. However, the subsidisation was determined to be negligible.

4.6 Conclusion

Section 269TDA outline when the Commissioner must terminate an investigation. Under section 269TDA(2) of the Act, if the Commissioner is satisfied that the level of subsidisation is negligible in relation to all exporters of a particular country, the Commissioner must terminate the investigation so far as it relates to that country.

Section 269TDA(16) sets out the negligible level of countervailable subsidisation for goods exported from Vietnam as 2%.

Based on the findings outlined in this report, the Commissioner has terminated the countervailing investigation in so far as it relates to all exporters of galvanised steel from Vietnam to Australia.

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5 Attachments

| | |
|--------------------------------------|--|
| Confidential Attachment 1 | Export price, normal value and dumping margin calculations for Hoa Sen and Nam Kim |
| Non-Confidential Attachment 1 | Assessment of subsidy programs – Vietnam |

| |
|---|
| NON CONFIDENTIAL ATTACHMENT 1 – ASSESSMENT OF SUBSIDY PROGRAMS - VIETNAM |
|---|

1. Findings

This attachment details the Commission’s assessment of the 19 subsidy programs investigated in relation to galvanised steel exported to Australia from Vietnam. The Commission’s assessment and findings of whether each subsidy program is countervailable in relation to galvanised steels exported from Vietnam is outlined in the table below.

| Program no. | Program Title | Program type | Countervailable in relation to galvanised steel |
|-------------|--|---------------|---|
| 1 | Preferential Import Tariff Rates contingent upon localisation Ratios with respect to products and Parts of Mechanical-Electric-Electronic Industries (updating Program II of Notification of Subsidies period 2003-2004) | Tariff Policy | Yes |
| 2 | Support for the Implementation of Projects Manufacturing Priority Industrial Products (Updating Programme III of 2003-2004) | Grant | No |
| 3 | Investment Incentives Contingent upon Export Performance For Domestic Businesses (Updating Programme IV of 2003-2004) | Grant | No |
| 4 | Other Investment Incentives for Domestic Businesses (Updating Program V of Period 2003-2004) | Grant | No |
| 5 | Investment Incentives Contingent upon Export Performance for Foreign Invested Enterprises (Updating Programme VI of the Period 2003-2004) | Grant | No |
| 6 | Other Investment Incentives for Foreign Invested Enterprises (Updating Programme VII for Period 2003-2004) | Grant | No |
| 7 | Preferential Investment Credit for Development Contingent upon Export Criteria (Updating Programme VIII of Period 2003-2004) | Grant | No |
| 8 | Preferential Development Credit for Investment Contingent Upon Localisation Ratios (Updating Programme IX of Period 2003-2004) | Grant | No |

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| | | | |
|----|---|---------------|-----|
| 9 | Other Preferential Investment Credit for Development (Updating Program X of Period 2003-2004) | Grant | No |
| 10 | Export Promotion (Updating Program XII of Period 2003-2004) | Grant | No |
| 11 | Trade Promotion (Updating of Programme XIII of Period 2003-2004) | Grant | No |
| 12 | Support for Mechanical Products (Updating Program XV of Period 2003-2004) | Grant | No |
| 13 | Support for Shipbuilding Industry (Updating of Programme XV of Period 2003-2004) | Grant | No |
| 14 | Assistance for Commercial Development in Mountainous, Island and Ethnic Minority Areas (Updating Programme XVI of Period 2003-2004) | Grant | No |
| 15 | Assistance to Enterprises Facing Difficulties Due to Objective Reasons (Updating of Programme XVII of Period 2003-2004) | Grant | No |
| 16 | Incentives for Investment Projects in Science and Technology (Updating Programme XVIII of Period 2003-2004) | Grant | Yes |
| | Program alleged to have benefited Hoa Sen Steel | | |
| 17 | Preferential Import Tariff Rates for enterprises investing in regions or sectors entitled to investment incentives | Tariff Policy | No |
| 18 | Incentives on corporate income tax for enterprises operating in regions or sectors entitled to incentives | Tax Policy | Yes |
| 19 | Incentives on Non-Agricultural Land Use Tax to encourage enterprises to invest in sectors or regions which require investment | Tax Policy | No |

Table 1: Assessment of subsidy programs investigated for Vietnam

2. Relevant Legislation

Section 269T defines a 'subsidy' as follows:

"subsidy" , in respect of goods exported to Australia, means:

(a) a financial contribution:

(i) by a government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that government is a member; or

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- (iii) by a private body entrusted or directed by that government or public body to carry out a governmental function; that involves:*
 - (iv) a direct transfer of funds from that government or body; or*
 - (v) the acceptance of liabilities, whether actual or potential, by that government or body; or*
 - (vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or*
 - (vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or*
 - (viii) the purchase by that government or body of goods or services; or*
- (b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;*
if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.

This reflects Article 1.1 of the WTO *subsidies and countervailing (SCM) Agreement*.

S.269TAAC defines a countervailable subsidy as follows:

- (1) For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.*
- (2) Without limiting the generality of the circumstances in which a subsidy is specific,*
 - a subsidy is specific:*
 - (a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or*
 - (b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or*
 - (c) if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or*
 - (d) if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.*
- (3) Subject to subsection (4), a subsidy is not specific if:*
 - (a) eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and*
 - (b) eligibility for the subsidy is automatic; and*
 - (c) those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and*
 - (d) those criteria or conditions are strictly adhered to in the administration of the subsidy.*
- (4) The Minister may, having regard to:*

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- a. *the fact that the subsidy program benefits a limited number of particular enterprises; or*
- b. *the fact that the subsidy program predominantly benefits particular enterprises; or*
- c. *the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or*
- d. *the manner in which a discretion to grant access to the subsidy has been exercised;*

determine that the subsidy is specific.

(5) *In making a determination under subsection (4), the Minister must take account of:*

- a. *the extent of diversification of economic activities within the jurisdiction of the subsidising authority; and*
- b. *the length of time during which the subsidy program has been in operation.*
- c.

Section 269TACC directs how the Parliamentary Secretary is to determine whether benefits have been conferred by a financial contribution or income or price support and the amount of this benefit.

Under section 269TJ, one of the matters of which the Parliamentary Secretary must be satisfied to publish a countervailing duty notice is that a countervailable subsidy has been received in respect of the goods.

2.1 Information considered by the Commission

The Commission has relied upon information submitted by the applicant, information provided by the GOV and information provided by the co-operating exporters with respect to its investigation of the countervailable subsidy programs that were allegedly received by Vietnamese exporters of galvanised steel exported to Australia.

2.2 Information provided by exporters

The Commission has relied upon information provided by exporters and verified by the Commission in assessing the alleged subsidy programs. This includes information provided by exporters in response to exporter questionnaire, and information gathered by the Commission during verification visits.

2.3 Information provided by the Government of Vietnam

The Commission incorporated questions relating to each program in the Government questionnaires that were sent to the GOV after initiation of the investigation.

Public version of the GOV's responses to the government questionnaires is on the Commission's website¹⁴

2.4 Other information considered as part of this assessment

¹⁴ www.adcommission.gov.au

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The Commission also considered as part of this assessment:

- Information submitted by interested parties in various general submissions to the investigation;
- information submitted to various previous investigations into the alleged subsidisation of various goods exported from Vietnam; and
- other relevant information obtained by the Commission during independent research into matters relevant to determining subsidisation of the goods in Vietnam.

3. CATEGORY 1: ASSESSMENT OF SUBSIDY PROGRAMS – TARIFF POLICY

In this category two tariff policy programs (Programs 1 and 17) were investigated by the Commission. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below.

3.1 Program 1: Preferential Import Tariff Rates contingent upon Localisation Ratios with respect to products and Parts of Mechanical-Electric-Electronic Industries (updating Program II of Notification of Subsidies period 2003-2004)

3.1.1 BACKGROUND

The application alleged that during the investigation period, exporters had benefited from preferential import tariff Rates contingent upon Localisation Ratios with respect to products and Parts of Mechanical-Electric-Electronic Industries

3.1.2 LEGAL BASIS

Import and Export Tariffs Law 2005 and Decree No. 87/2010/ND-CP dated 13 August 2010 guiding the implementation of several articles of the Import and Export tariffs Law. The program is administered by the Ministry of Finance.

3.1.3 WTO NOTIFICATION

The Commission is not aware of any WTO notification of this program.

3.1.4 ELIGIBILITY CRITERIA

In its response to the government questionnaire, the GOV stated that preferential import tariff rates contingent upon localization ratios were introduced in 1998 and terminated in 2006. Thus, this program is outside period of investigation.

The program was to encourage the domestic production and assembly of products and parts of mechanical – electric – electronic industries. Galvanised steel products do not fall into the scope of mechanical – electric – electronic industries. The preferential import tariff rate schedule was provided under Decision No.1944/1998/QD-BTC dated 25 December 1998 promulgating the regulation on preferential import tariff rates contingent upon localization ratios with respect to parts of mechanical-electric-electronic industries.

Ministry of Finance issued the preferential tariff rate schedule and provincial custom authority of the place where the importer implemented the project administered the program.

3.1.5 IS THERE A SUBSIDY?

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While this program has been terminated, some cooperating exporters imported certain capital goods and benefitted from this program. The amortization period of some of those assets happen to be in the investigation period. The program benefit is the difference between the standard import duty rate and the preferential duty rate which corresponds to the localization ratio.

The program was provided under Joint Circular No.176/1998/TTLT-BTC-BCN-TCHQ dated 25 December 1998, which was amended by Joint Circular No.120/2000/TTLT-BTC-BCN-TCHQ dated 25 December 2000 guiding the implementation of tariff imposition contingent upon localization ratios with respect to products and parts of mechanical-electric-electronic industries and Decision No.1944/1998/QD-BTC dated 25 December 1998 promulgating the regulation on preferential import tariff rates contingent upon localization ratios with respect to parts of mechanical-electric-electronic industries. As part of Vietnam's commitments to access the WTO, this program was terminated on 1 October 2006 under Decision 43/2006/QD-BTC.

3.1.6 IS THE SUBSIDY A COUNTERAVAILABLE SUBSIDY (SPECIFIC OR PROHIBITED)?

As the criteria or conditions providing access to the subsidy favors particular enterprises over other enterprises in Vietnam, the program is considered to be specific. The specificity of the subsidy is not exempted by reference to subsection 269TAAC(3). For these reasons the subsidy is specific.

3.1.7 THE AMOUNT OF SUBSIDY IN RESPECT OF THE GOOD

3.1.7.1 Cooperative exporters

Two Cooperative exporters benefitted under this program during the investigation period. Therefore, a subsidy rate was calculated for those exporter.

Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefitted under this program during the investigation period.

3.1.7.2 Uncooperative exporters

The maximum benefit amount available under this program was from the one of the two Cooperative exporters who benefitted from this program. The Commission has therefore applied the highest Cooperative exporters' subsidy under this program for uncooperative exporters.

4. Program 17: Preferential Import Tariff Rates for enterprises investing in regions or sectors entitled to investment incentives

4.1.1 BACKGROUND

The applicant alleged that the exporters of the goods had benefited from preferential import Tariff Rates for enterprises investing in regions or sectors entitled to investment incentives

4.1.2 LEGAL BASIS

The Law on Import Duty and Export Duty was valid between 1 January 2006 and 31 August 2016. Decree 87/2010/ND-CP was valid between 1 October 2010 and 31 August 2016.

4.1.3 WTO NOTIFICATION

The Commission is not aware of any WTO notification of this program.

4.1.4 ELIGIBILITY CIRTERIA

In its response to the government questionnaire, the GOV stated that import duties Import duties benefits include duty exemption and duty reduction. During the period of investigation ("POI"), duty exemption is provided under Article 16 of the Law on Import Duty and Export Duty, No. 45/2005/QH11 of June, 14th 2005 and further elaborated by Article 12 of Decree 87/2010/ND-CP, detailing the implementation of a number of articles of the Law on Import Duty and Export Duty. Meanwhile, import duty reduction is provided under Article 18 of the Law on Import Duty and Export Duty, No. 45/2005/QH11 of June, 14th 2005 and further elaborated by Article 14 of Decree 87/2010/ND-CP, detailing the implementation of a number of articles of the Law on Import Duty and Export Duty.

4.1.5 IS THERE A SUBSIDY?

The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations

4.1.6 IS THE SUBSIDY A COUNTERAVAILABLE SUBSIDY (SPECIFIC OR PROHIBITED)?

The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period.

4.1.7 THE AMOUNT OF SUBSIDY IN RESPECT OF THE GOOD

No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program.

5. CATEGORY 2: ASSESSMENT OF SUBSIDY PROGRAMS – TAX POLICY

In this category two tariff policy programs (Programs 18 and 19) were investigated by the Commission. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below.

5.1 Program 18: Incentives on corporate income tax for enterprises operating in regions or sectors entitled to incentives

5.2 BACKGROUND

The application alleged that during the investigation period, exporters had benefited from incentives on corporate income tax for enterprises operating in regions or sectors entitled to incentives.

5.3 LEGAL BASIS

The following laws have been identified by the GOV:

- Law on Corporate Income Tax 2008
- Law Amending and Supplementing a number of articles of the Law on Corporate Income Tax 2008 ("the Amending Law 2013),
- Law on Amendments to Tax Law No 71/2014/QH13 (the Amending Law 2014)
- Decree 218/2013/ND-CP effective from 15 February 2014
- Decree 91/2014/ND-CP dated 1 October 2014
- Decree 12/2015/ND-CP effective from 1 January

5.4 WTO NOTIFICATION

The Commission is not aware of any WTO notification of this program.

5.5 ELIGIBILITY CRITERIA

In its response to the government questionnaire, the GOV stated that during the investigation period, corporate income tax and tax benefits are governed by the Law on Corporate Income Tax 2008 and the Law Amending and Supplementing a number of articles of the Law on Corporate Income Tax 2008 ("the Amending Law 2013), the Law on Amendments to Tax Law No 71/2014/QH13 (the Amending Law 2014), Decree 218/2013/ND-CP effective from 15 February 2014, Decree 91/2014/ND-CP and Decree 12/2015/ND-CP effective from 1 January 2015. According to Article 1.6 of the Amending Law 2013, the standard tax rate applicable during the POI is as follows:

- 22% applicable from 1 July 2015 to 31 December, 2015.
- 20% applicable from 1 January 2016 to 30 June, 2016.

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Corporate income tax benefits including preferential income tax rate, tax exemption and tax reduction are governed by Article 1.7 of the Amending Law 2013 and Article 1.7 of the Amending Law 2014. Accordingly, there are 03 preferential tax rates such as 20%, 15% and 10%. Since 1 January 2016, the preferential tax rate of 20% is adjusted to 17% as provided under Article 1.7 of the Amending Law 2013.

5.6 IS THERE A SUBSIDY?

Some cooperating exporters imported certain capital goods and benefitted from this program. The amortization period of some of those assets happen to be in the investigation period.

5.7 IS THE SUBSIDY A COUNTERAVAILABLE SUBSIDY (SPECIFIC OR PROHIBITED)?

As the criteria or conditions providing access to the subsidy favours particular enterprises over other enterprises in Vietnam, the program is considered to be specific. The specificity of the subsidy is not exempted by reference to s. 269TAAC (3). For these reasons the subsidy is specific.

5.8 THE AMOUNT OF SUBSIDY IN RESPECT OF THE GOOD

5.8.1. Cooperative exporters

One Cooperative exporter benefitted under this program during the investigation period. Therefore, a subsidy rate was calculated for that exporter.

Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefitted under this program during the investigation period.

5.8.2. Uncooperative exporters

The maximum benefit amount available under this program was from the one Cooperative exporter who benefitted from this program. The Commission has therefore applied that Cooperative exporter's subsidy amount under this program for uncooperative exporters.

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6. Program 19: Incentives on Non-Agricultural Land Use Tax to encourage enterprises to invest in sectors or regions which require investment

6.1 BACKGROUND

The applicant alleged that the exporters of the goods had benefited pursuant to incentives on Non-Agricultural Land Use Tax to encourage enterprises to invest in sectors or regions which require investment.

6.2 LEGAL BASIS

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

6.3 WTO NOTIFICATION

The Commission is not aware of any WTO notification of this program.

6.4 ELIGIBILITY CRITERIA

In its response to the government questionnaire, the GOV stated that during the period of investigation, non-agricultural land use tax is provided under the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and Decree 53/2011/ND-CP implementing this Law.

Non-agricultural land use tax benefits including tax exemption and reduction are provided under Article 9 and 10 of the Law and Article 8 of Decree 53.

6.5 IS THERE A SUBSIDY?

The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.

6.6 IS THE SUBSIDY A COUNTERAVAILABLE SUBSIDY (SPECIFIC OR PROHIBITED)?

The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period.

6.7 THE AMOUNT OF SUBSIDY IN RESPECT OF THE GOOD

No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program.

CATEGORY 3: ASSESSMENT OF SUBSIDY PROGRAMS – GRANTS

Program numbers 2 -16 - In this category 15 grant programs were investigated by the Commission. Only 1 program (program number 16) was found to be countervailable. The Commission's assessment as to whether these programs are countervailable subsidies in respect of galvanised steel, and the method of subsidy calculation under these programs, is contained in the below table. The Commission is not aware of any WTO notification of any of the programs below.

| Program Number | Program description | Background | Legal basis | Eligibility Criteria | Is there a subsidy? | Is the subsidy countervailable? | Method used to calculate subsidy margin |
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| 2 | Support for the Implementation of Projects Manufacturing Priority Industrial Products (Updating Programme III of 2003-2004) | The applicant alleged that the exporters of the goods had benefited pursuant to support for the implementation of projects manufacturing industrial products. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that this program provided support for the implementation of manufacturing projects of priority industrial products including shipbuilding, combustion engines, color television sets and computers for purpose of boosting the development of these sectors in Vietnam as provided under Decision 37/2000/QD-TTg | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers a zero subsidy rate is applicable to all exporters under this program. |

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| | | | | dated 4 March 2000 and Decision 19/2001/QD-TTg dated 20 February 2001. As such, galvanized steel industry was not entitled to benefits under this program. | | | |
| 3 | Investment Incentives Contingent upon Export Performance For Domestic Businesses (Updating Programme IV of 2003-2004) | The applicant alleged that the exporters of the goods had benefited from the investment incentives contingent upon export performance from domestic businesses. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that investment incentives for domestic exporting enterprises were triggered in 1998 and terminated in October 2006. | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanized steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanized steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanized steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |
| 4 | Other Investment Incentives for Domestic Businesses (Updating Program V of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited other investment incentives for domestic businesses. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that investment incentives for | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanized steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this | The Commission is not satisfied that exporters of galvanized steel received any financial contribution in respect of these goods under these programs during the | No evidence was found to indicate that any Cooperative exporters of galvanized steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |

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| | | | its establishment) | domestic enterprises were triggered in 1998 and terminated on 1 July 2006. | program in respect of other goods in previous investigations. | investigation period. | |
| 5 | Investment Incentives Contingent upon Export Performance for Foreign Invested Enterprises (Updating Programme VI of the Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from investment incentives contingent upon Export Performance for Foreign Invested Enterprises | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that investment incentives for foreign invested enterprises upon on export performance were triggered in 2000 and terminated in 2007. | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |
| 6 | Other Investment Incentives for Foreign Invested Enterprises (Updating Programme VII for Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from other investment incentives for foreign enterprises. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that investment incentives for foreign enterprises were triggered in 2000 and | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |

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| | | | | terminated on 1 July 2006. | | | |
| 7 | Preferential Investment Credit for Development Contingent upon Export Criteria (Updating Programme VIII of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from preferential Investment Credit for Development Contingent upon Export Criteria. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that preferential investment credit for development contingent upon export criteria was triggered in 2001 and terminated on 16 January 2007. | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |
| 8 | Preferential Development Credit for Investment Contingent Upon Localisation Ratios (Updating Programme IX of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from preferential development credit for Investment Contingent Upon Localisation Ratios. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that preferential development credit contingent upon localization ratios was triggered in 2004 and terminated on 16 January 2007. | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |

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| <p>9</p> | <p>Other Preferential Investment Credit for Development (Updating Program X of Period 2003-2004)</p> | <p>The applicant alleged that the exporters of the goods had benefited from other preferential Investment Credit for Development.</p> | <p>The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment)</p> | <p>In its response to the government questionnaire, the GOV stated that other preferential investment credit refers to investment credit of which the provision is not contingent upon export criteria or localization ratio. Eligibility to receive investment credit under this program is provided under the List of projects entitled to investment credits of Decree 106 or Decree 151 or Decree 106 or Decree 75. Ministry of Finance issues circulars to provide guidelines for the implementation of the program. The Vietnam Development Bank (formerly known as the Development Assistance Fund) provides investment credits to eligible entities in accordance with</p> | <p>The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations.</p> | <p>The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period.</p> | <p>No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program.</p> |
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| | | | | the above regulations and its own regulations on credit provision. This program is still in effect. | | | |
| 10 | Export Promotion (Updating Program XII of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from export promotion program. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | <p>There are no articulated eligibility criteria to receive funding pursuant to this project.</p> <p>In its response to the government questionnaire, the GOV stated that this program is provided under Decision 195/1999/QD-TTg dated 27 September 1999 on the establishment, use and management of the Export Support Fund and was terminated under Decision 124/2008/QD-TTg on 8 September 2008.</p> | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |
| 11 | Trade Promotion (Updating of Programme XIII of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from | The Commission has not identified any specific legal basis for this program | In its response to the government questionnaire, the GOV stated that the National Trade Promotion program | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this | The Commission is not satisfied that exporters of galvanised steel received any financial | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. |

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| | | trade promotion program. | (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | is provided under Decision 72/2010/QD-TTg dated 15 November 2010 promulgating the regulation on the establishment, management and implementation of the National Trade Promotion Program. This is a state-funded program of which the objectives are, among others, to enhance trade promotion activities and develop export market. Section II of Decision 72 lists the activities for which trade promotion funds will be available and the support level for these activities. An eligible organization, usually a trade association (individual companies can only apply if there is no trade association in their industry) submits a proposal to MOIT. The | program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | contribution in respect of these goods under these programs during the investigation period. | The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |
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| | | | | <p>proposal is normally screened by the Program Administration and then presented to the Council. Normally, proposals for the following calendar year must be submitted in the previous year. Based on the Council's assessment, the Program Administration reports to the Minister of Industry and Trade for approval of such proposal. National trade promotion program for 2015 is provided under Decision 11855/QD-BCT dated 26 December 2014.</p> | | | |
| 12 | Support for Mechanical Products (Updating Program XV of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from support for mechanical products. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that the | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under | <p>No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period.</p> <p>The Commission therefore, considers zero subsidy rate</p> |

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| | | | document has been identified that provides for its establishment) | support for mechanical products was triggered in 2000 under Decision 67/2000/QD-BCN dated 20 November 2000 and terminated on 4 January 2007 as provided under Decision 43/2006/QD-BCN. | Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | these programs during the investigation period. | is applicable to all exporters under this program. |
| 13 | Support for Shipbuilding Industry (Updating of Programme XV of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from support for shipbuilding industry. | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the GOV stated that support for shipbuilding industry is provided under Decision 117/2000/QD-TTg dated 10 October 2000. The support was limited to shipbuilding projects as identified in Article 1 of Decision 117/2000/QD-TTg. Galvanized steel products do not fall | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanized steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanized steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanized steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |

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| | | | | into shipbuilding sectors of this Article. | | | |
| 4 | Assistance for Commercial Development in Mountainous, Island and Ethnic Minority Areas (Updating Programme XVI of Period 2003-2004) | The applicant alleged that the exporters of the goods had benefited from assistance for Commercial Development in Mountainous, Island and Ethnic Minority Areas | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, or other GOV document has been identified that provides for its establishment) | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response, the GOV stated that assistance for commercial development in mountainous, island and ethnic minority areas was provided under Decree 20/1998/ND-CP dated 31 March 1998 which was amended and supplemented by Decree 02/2002/ND-CP dated 3 January 2002. The program was terminated in fact in 2012. | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these goods under these programs during the investigation period. | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate is applicable to all exporters under this program. |
| 15 | Assistance to Enterprises Facing Difficulties Due to Objective Reasons (Updating of Programme | The applicant alleged that the exporters of the goods had benefited pursuant to assistance to enterprises | The Commission has not identified any specific legal basis for this program (i.e. no specific law, regulation, | There are no articulated eligibility criteria to receive funding pursuant to this project. In its response to the government questionnaire, the | The Commission has determined that the Cooperative exporters did not receive any financial contribution in respect of galvanised steel under this program during the investigation period, nor | The Commission is not satisfied that exporters of galvanised steel received any financial contribution in respect of these | No evidence was found to indicate that any Cooperative exporters of galvanised steel have benefited under this program during the investigation period. The Commission therefore, considers zero subsidy rate |

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| | XVII of Period 2003-2004) | facing difficulties due to objective reasons. | or other GOV document has been identified that provides for its establishment) | GOV stated that assistance to enterprises facing difficulties due to objective reasons is provided under Decision 172/2001/QD-TTg dated 5 November 2001 and implemented by Circular 32/2002/TT-BTC dated 10 April 2002. This program was terminated on 1 July 2007 when the Law on Tax Administration No 78/2006/QH11 came into effect which annuled all the assistance relating to tax under Decision 172 and Circular 32. In addition, Circular 32/2002/TT-BTC was also annuled by Decision 53/2008/QD-BTC dated 14 July 2008 | has the Commission found Cooperative exporters to have received any financial contribution under this program in respect of other goods in previous investigations. | goods under these programs during the investigation period. | is applicable to all exporters under this program. |
| 16 | Incentives for Investment Projects in Science and Technology (Updating | The applicant alleged that the exporters of the goods had benefited pursuant to | -Decision 119/199/ND-CP dated 18 September 1999 | In its response to the government questionnaire, the GOV stated that Incentives for investment in | The Commission has determined that some cooperative exporters receive financial contribution in respect of galvanised steel under this | The Commission is satisfied that exporters of galvanised steel received any financial | <u>Cooperative exporters</u> One Cooperative exporter benefited under this program during the investigation period. Therefore, a subsidy |

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| | Programme XVIII of Period 2003-2004) | incentives for investment projects in science and technology. | <p>-The law on Corporate Income Tax 2003</p> <p>-The Law on Land 2003</p> <p>-Decree 149/2005/ND-CP dated 8 December 2005</p> <p>-Decree 02/2014?ND-CP dated 27 January 2014</p> <p>The Ministry of Finance and Ministry of Science and Technology issued joint-circulars to instruct the provincial authority in implementing this program.</p> | <p>science and technology are provided under Decree 119/1999/ND-CP dated 18 September 1999 in order to encourage enterprises to invest in scientific and technological activities.</p> | <p>program during the investigation period.</p> | <p>contribution in respect of these goods under these programs during the investigation period</p> <p>The program is limited to enterprises which invested in scientific and technological activities.</p> <p>The specificity of the subsidy is not exempted by reference to subsection 269TAAC(3). For these reasons the subsidy is specific.</p> | <p>rate was calculated for that exporter.</p> <p>Zero subsidy rate will be applicable to all other Cooperative exporters as no evidence was found to indicate that other Cooperative exporters benefited under this program during the investigation period.</p> <p><u>Uncooperative exporters</u></p> <p>The maximum benefit amount available under this program was from the one Cooperative exporter who benefited from this program.</p> <p>The Commission has therefore applied that Cooperative exporter's subsidy under this program for uncooperative exporters.</p> |
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