

18 June 2013

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For Public Record

BY EMAIL: itrops3@customs.gov.au

Ms Joanne Reid
Director Operations 2
International Trade Remedies Branch
Australian Customs & Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear Ms Reid

**Hot Rolled Plate Steel – Investigation into Alleged Dumping and Subsidisation -
Like Goods
File Note of Meeting with BSL – Public Record: Item 116.**

We represent Bisalloy Steels Pty Ltd (**Bisalloy**) in relation to the above matter and refer to the above file note of a meeting between Customs and the applicant on 6 June 2013.

Item 1 of the file note summarises a discussion on our submission of 30 May 2013 on behalf of Bisalloy as follows;

- BlueScope Steel Ltd (BlueScope) reiterated that it considers Q&T green feed to be like goods to other types of plate steel.
- Customs and Border Protection confirmed that its position had not changed from that stated in its letter to Bisalloy dated 1 May 2013, document number 87 on the Electronic Public File.

The two summary points presented under the one heading suggest that Customs, in its letter of 1 May 2013, endorsed the BSL claim. In fact that letter does not even address the issue of whether alloyed Q&T Green Feed is a like good to non-alloyed steel plate and we cannot identify any record of a finding or expression of opinion by Customs on the issue. The Customs 'position'

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referred to in the second point of the above discussion summary only relates to the alleged immutability of a goods description published by the CEO at the commencement of an investigation.

We request, therefore, that Customs prepares and publishes an amended file note that makes it clear that it has not yet made a finding on the issue of whether alloyed Q&T Green Feed is a like good to non-alloyed steel plate. Alternatively, to avoid further time being wasted, we invite Customs to announce what is obvious to any reasonable person – alloyed Q&T Green Feed is neither identical to nor, by reference to any accepted criterion, does it have characteristics closely resembling non-alloyed steel plate.

Bisalloy provided a comprehensive analysis of the like goods issue in its letter to Customs of 18 April 2013 and demonstrated conclusively that, applying all the usual criteria, Q&T Greenfeed and non-alloy plate steels are not like goods. In a letter of 21 May 2013 the applicant purported to respond to Bisalloy's analysis but failed to engage with any of the substantive and determinative considerations identified by our client. The opening sections of the letter are an inchoate ramble on the uncontroversial proposition that manufacturers must be mindful of their customers requirements and concludes with the statement that:

All steel plate produced by BlueScope is manufactured to specification; hence there can be no specific exclusion of a product as being not 'alike' on the grounds of chemical composition or any other specification.

The meaning, if any, of this statement is unclear but what is clear is that it does not in any way rebut or otherwise detract from our client's analysis of the real issues. The remainder of the applicant's response is a cut and paste job from its original application. That application did not establish, did not try to establish and indeed had no need to establish, that Q&T Green Feed was a like product to the other plate steel items included in the goods description.

It should also be noted that the applicant's unreasoned position in relation to the 'like goods' issue is incompatible with its acknowledgement in its application of the price and cost differences between alloyed Q&T Green Feed and non-alloyed plate steel and its further acknowledgement, in its letter of 18 April 2013 to Customs [PR – Item 96], that separate unsuppressed selling prices must be established for the two products.

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In circumstances where there is no cogent or persuasive rebuttal of Bisalloy's detailed analysis of the like goods issue we submit that Customs should publish an interim finding that Q&T Green Feed is not a like product to non-alloyed plate steel and restructure the present investigation in accordance with that finding.

Again we stress that the inclusion within the original goods description of products that are not 'like goods' does not invalidate either BSL's application or the CEO's acceptance of that application. As we have previously pointed out, however, it does impact on how the investigation and analysis of such issues as material injury, cumulation and causation must be conducted.

Yours sincerely

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John Cosgrave
Director, Trade Measures

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