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For Public Record

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Ms Joanne Reid
Director Operations 2
Anti-Dumping Commission
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear Ms Reid

Hot Rolled Plate Steel – Investigation into Alleged Subsidisation: Alloyed Q&T Greenfeed

As you are aware we represent Bisalloy Steels Pty Ltd, the sole Australian customer for alloyed Q&T Greenfeed exported from the People's Republic of China (**PRC**) during the dumping investigation period. We refer to our earlier submission of 21 August 2013 and in particular to paragraphs 30 – 32 of that submission.

Those paragraphs set out the grounds on which, because of the absence of any evidence of material injury due to alleged subsidisation, exports from the PRC of alloyed Q&T Greenfeed should not be included in any countervailing duty notice applying to exports of other kinds of plate steel.

In addressing the issue of the manner in which such an exclusion may be achieved, we draw your attention to a very recent observation by Nicholas J in *PanAsia Aluminium (China) Limited v Attorney General of the Commonwealth* [2013] FCA 870 at paragraph 145:

[I]t is important to keep in mind that there is nothing in Part XVB of the Act (or the Anti-Dumping Agreement) that requires that duty be imposed upon some goods within a relevant class ... that are sold at or above normal value. On the contrary, pursuant to s 269TL of the Act, the Minister may decide, on the recommendation of the CEO, not to impose duty on "particular goods or goods of a like kind to particular goods".

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That observation obviously applies with equal force to circumstances in which alleged subsidisation of prior exports of particular goods and anticipated exports of a like kind to those particular exports have not caused, are not causing and are not threatening material injury to an Australian industry. We submit that the present matter, in so far as it relates to exports of alloyed Q&T Greenfeed, is just such a case and that the Commissioner should recommend to the Minister that he decide, pursuant to s 269TL, not to declare alloyed Q&T Greenfeed to be goods to which any notice under s 10 of the Dumping Duty Act applies.

Yours sincerely
MINTER ELLISON

John Cosgrave
Director, Trade Measures

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