

18<sup>th</sup> May 2017

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**Investigation 384 Alloy Round Bar exported from the People's Republic of China  
Position Paper  
Scope of the Goods Description**

Dear Director,

This submission is made in response to the Anti-Dumping Commission's ("Commission") recently published "Position Paper : Scope of Goods Description" , made available on the electronic public record for Investigation 384 on the 4<sup>th</sup> May 2017.

***Attempting to understand the goods description through a 'like goods' interpretation***

The Commission's preliminary views concerning the scope of the goods description contained in the *Position Paper*, appear to attempt to justify the scope of the investigation through an interpretation of whether or not the goods under consideration (GUC) are in fact one and the same as the 'like goods' produced by an Australian industry. In other words, defining the GUC through the 'like goods'. With respect, this is the wrong order of the conventional or expected analysis of the relationship between the two categories – having received the applicant's description of "the goods" (or GUC) to which a Dumping Duty Notice should apply, the Commission's analysis then involves an assessment of whether or not there exists in Australia an industry producing 'like goods'.

To the extent, that the Commission may conclude that with respect to some categories of the goods, the Australian industry does not produce 'like goods', then that is not cause to attempt to narrow the scope of the goods description (once the investigation has been initiated), but rather to have regard as to whether or not those categories of goods should be exempt from dumping duty under either paragraphs (a) or (b) of Subsection 8(7) of the *Customs Tariff (Anti-Dumping) Act 1975*, and make the necessary recommendation to the Minister to publish any one or more exemption instruments.

Therefore, it is the applicant's position that the goods description captures the goods irrespective of heat-treatment and/or surface treatment. Any attempt by the Commission to narrow the description of the

goods by implying into the language allegedly limiting factors or sub-text would be a legally flawed response. The question for the Commission within the context of the investigation is essentially an easy one:

1. Does a particular category of goods imported meet the goods description?
2. If so, is there an Australian industry producing like goods to that category?
- 3(a) (i) If not, then the import of this specific category of goods cannot count towards the assessment of material injury suffered by the Australian industry; and
  - (ii) A Ministerial Exemption Instrument may be warranted.
- 3(b) If there is an Australian industry producing like goods to this category, then assess material injury of any finding of dumping against this member of the Australian industry.

#### ***Implying sub-text into the goods description***

As explained above, the applicant considers that it is not open for the Commission to attempt to interpret the language of the goods description by implying language, especially if that language limits the description of the goods. Nevertheless, the Commission has suggested certain ‘preliminary views’ in its Position Paper. The applicant disagrees with these ‘views’ on the following grounds:

#### **1. *“Hot-rolled solid sections of alloy steel” does not ipso facto imply “as rolled”***

It is incorrect to conclude that the description “hot rolled” implies that the goods intended to be subject to the investigation are only “as rolled”. Inclusion of the words *“regardless of the particular grade, coating, or minor modification of bar-end finish (including but not limited to, painting or chamfering)”* is evidence of the intention of the applicant that the use of the words “hot rolled” not be limited to interpretation of “as rolled” with no further processing applied. The use by the applicant of the term “hot rolled” was further intended to differentiate the goods from “cold rolled” bars. The term “hot rolled” and “cold rolled” or “cold formed/worked” refers to working/rolling/forming the steel either above or below a specific temperature known as the recrystallization temperature. Hot working/forming/rolling occurs above this temperature (for steels typically above 700°C – but it may vary dependent on steel type and processing), whereas cold working/forming/rolling occurs below this (recrystallization) temperature. Hot or cold working/forming/rolling processes produce distinctly different surface finishes and properties in the steel and thus require differentiation. It must be noted however that steels that are cold worked/formed/rolled first start as a product that has been initially hot worked/formed/rolled as the starting product for further processing.

Noting the above, all steel bar that is going to be further processed through heat treatment, surface treatment, coating etc. starts first as “hot rolled” (hot worked/formed/rolled) product. This step happens regardless of any further additional processing. It is the purpose of the additional processing steps - cold working, heat treatments, surface treatments, coatings etc) to modify the mechanical and/or other properties (such as surface finish) of the finished bar products. The applicant did not intend to apply for the imposition of dumping duties against “cold rolled” solid sections of steel, and it is for that reason it used the description of “hot rolled”. If the applicant did not specify the rolling process, then the goods description may have inadvertently attracted “cold rolled” bar products.

**2. *“The process of heat-treatment of the alloy round bar is a completely separate process to the production of alloy round bar”***

It is incorrect for the Commission to conclude that the process of heat-treatment of the alloy round bar is completely separate to the production of alloy round bar for the reasons as noted in point-1 (above). For at least one of the product types described in the alloy round bar application, the applicant routinely applies a stress relieving treatment to the steel bar ends to reduce the risk of bar end cracking. Evidence of this practise was provided by the applicant to the Commission during the verification visit and is considered a form of heat treatment.

At the final stage of the rolling process, instead of the bars being cooled on a cooling bed by natural air draft cooling, some mills are known to pack steel bars in covered insulated boxes or warm sand to allow for a slower, more controlled cooling process. These bars may be considered to have had a box annealing or pack annealing heat treatment process applied. Clearly this could not be considered to be a *“completely separate process to the production of alloy round bar”*.

Due to the broad range of processes that could be considered to meet the definition of a “heat treatment process”, attempts to exclude bar that has been “heat-treated” will require specific differentiation of individual processes with the expected mechanical property outcomes for a given grade in order to allow compliance checks to be done that the product has in fact had such a treatment applied and claims of heat treatment are not merely being made in an attempt to evade duties payable.

Although the applicant does not apply heat treatment processes such as:

- induction hardening; or
- quenching and tempering,

to the alloy round bar produced, another Australian producer, Milltech Pty Ltd, does produce alloy round bar that has undergone these treatments.

**3. *“Surface treatments that may be applied to the alloy round bar”***

Although the applicant does not perform the following surface treatments to the alloy round bar produced by it, it does not preclude them from being included in the definition of the goods the subject of the investigation:

- rough machining;
- peeling and polishing;
- turning;
- centreless grinding.

In fact, again Milltech Pty Ltd, does in fact produce in Australia alloy round bar that undergoes these surface treatment applications.

FOR AND ON BEHALF OF THE APPLICANT ONESTEEL MANUFACTURING PTY LTD