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PUBLIC RECORD VERSION

June 5, 2012

Ms Andrea Stone
Manager
Operations 3
International Trade Remedies Branch
Australian Customs & Border Protection Service
Customs House
Canberra ACT 2601

Dear Ms Stone

**Investigation No 177
'Alpine' - Malaysia**

We are writing in response to your requests of 22 May 2012 concerning evidence you now claim to have encountered on 'Alpine's' prices of HSS and also, in response to Mr Gleeson's letter of 4th June 2012.

In response to your specific contentions we have concluded that based on our analysis to date those matters you refer to do not affect the selling price of Alpine's "HSS" and that no amendment to dumping calculations for variations in grade and specification are either necessary or warranted other than our previously expressed claims on excluding goods with a wall thickness >9mm.

The data Alpine needs to provide for purposes of undertaking further analysis being only in order to satisfy any contentions concerning grade affects is not yet complete and given the resources required to complete the required data it has not been possible to do so within my need to respond to your requests.

Whilst a diligent attempt is being made 

. We will be responding on this at the earliest opportunity.

The Alpine visit report however details the various standards applying to the different types of HSS and other, non GUC products, that Alpine produce.

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The report, in para 3.6, also acknowledged the fact that Alpine ,like Onesteel-ATM and other HSS producers, applies actual weights for production volumes and sells on a theoretical weight basis in accordance with the relevant "pipe" standard.

We maintain that the on -site verification visit should have allowed for this information to be offered ,and tested. CBP however decided not to pursue this universally accepted, and allowable, tolerance and it is only to the extent that CBP now raise the issue of grade variations that we consider there is value in undertaking this further analysis on the actual versus theoretical weight comparisons.

Clearly our understanding to date has been that the issue of different grades is not a factor, whereas the issue of varying mass tolerances is considered a factor on price comparison given that the only "offered" sampling during verification indicated a range of between [REDACTED]

The basic issues however are considered to be those of production costs, proper comparison, and evidenced data.

If various grades of HRC were to affect the price of HSS it would be reflected in the production costs which would then translate into selling prices.

The CBP investigation team that conducted the site visit to Alpine in February 2012 comprised Mr Gleeson and yourself.

That verification evidenced and concluded that for Alpine the "same HRC is used to produce ALL products", meaning that there is no variation in the cost to make the HSS in the initial "Black" finish.

Page 24 of the Visit report states the above finding which, inter alia, also stated:-

"We conducted analysis of these coil costs by specification and month, and noted that the value of coils booked into production did not vary in price from specification to specification."

Alpine paid an effective price for its HRC purchases with the key price determinant being the volume consideration and not the specific grade.

Grades of HRC also have varying dimensional tolerances and whilst the standards specify guaranteed minimum mechanical properties the actual coil thickness and chemical composition can influence the average mechanical properties.

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Onesteel-ATM's own promotional material on its "unique" DUALGRADE steel states that the higher level of working the input steel during the coil and pipe making process can also contribute in achieving the required mechanical properties to satisfy standards such as AS 1163.

Alpine also demonstrated and evidenced during the verification visit, the variable factors ,apart from the CTM&S, plus margin, that can affect its domestic selling prices are:-

- FINISH
- SHAPE
- THICKNESS
- CUSTOMER PROFILE
- VOLUME & "LOYALTY"
- PRODUCT AVAILABILITY ex STOCK
- PAYMENT TERMS

CBP prescribed the methodology for any price comparison analysis which CBP determined would be based on a quarter by quarter analysis in terms of:-

- FINISH
- SHAPE
- THICKNESS

This prescription essentially mirrored the Alpine basis except for CBP's additional thickness factor which for CBP's price comparison and analysis purposes CBP prescribed that the relevant goods also needed to be categorized in accordance with the following wall thickness groupings :

- < 2mm
- 2mm to 2.99mm
- 3mm to 8.99mm
- >9mm

CBP therefore effectively prescribed these specific product subsets based on wall thickness and in terms of "finish", Alpine's exports to Australia during the investigation period essentially comprised goods with a "painted" finish whereas the domestic sales of "like goods" did not include any "painted" finish.

Painting is a post -production process not affected by "grade" and for purposes of assessing a fair and reasonable comparison of domestic and export sales CBP constructed a hypothetical domestic selling price for "painted" product by means of uplifting the profitable domestic sales of "unpainted" product on a quarter by

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quarter basis and on the basis of the above mentioned thickness categories, finish and shape.

As you are aware CBP commenced this Investigation on 19th September 2011 and prior to this Investigation CBP (nee Customs) had investigated this same product from the same exporters since at least year 2006 and given the "benefit" of having received targeted "industry" briefings from Onesteel-ATM pre attending any overseas site visits there should not have been any surprise in dealing with 'product' understanding or the "same" production process.

We would therefore consider it most improper if at this final stage of the current process and Investigation that for reasons not totally transparent or clear to our interests CBP is now considering changing its findings based on the very same data and information previously requested, supplied and evidenced.

CBP has determined current normal values by evidencing the necessary data supplied in accordance with CBP's own preferred methodology and prescribed "goods" treatment.

Any consideration on applying an alternative, different methodology at this final stage of the process only raises issues and concerns on procedural fairness and in any event for reasons concluded in the visit report and repeated in this response, is simply not warranted in respect to Alpine's verification.

The scope of that Verification, and resultant findings, was totally controlled by CBP in terms of the pre visit agenda and the selection and treatment of data, etc.

That verification resulted in Alpine's total exports to Australia during the Investigation Period being assessed as having a technical dumping margin of 3.0%.

Without challenging any part of the CBP methodology on constructing the hypothetical Normal Value for Alpine, the evidenced conclusion is that the prescribed CBP treatment of identifying specific sub sets of goods based on the previously outlined thickness categories resulted in the majority of Alpine's exports, namely [REDACTED] out of [REDACTED], or 80%, being demonstrably not "dumped".

As clearly identified by CBP, the remaining [REDACTED], or 20%, of Alpines exports during the investigation period that have been considered "dumped" were goods that had a wall thickness of 9mm or more.

We raise this issue again in light of Mr Gleeson's letter of 4th June 2012.

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We repeat this CBP finding on Alpine's exports for the simple reason that should the minister publish a Dumping Notice on Alpine it would constitute his imposing a prospective Dumping Duty on goods that we genuinely believe are no longer produced in Australia by any local producer.

In our opinion that would not only be viewed as discriminatory treatment of a specific producer/exporter but the real world effect would be to only bestow a preferential market advantage for the Onesteel Group because of its continued imports of that product size from Maruichi of Japan, being goods not subject to this action.

We claim that such an outcome is not within the scope, intention or discretion of Australia's anti dumping legislation.

We are not contesting whether those goods were produced during the investigation period but our understanding, based on reliable industry and market information, is that there is now, no local producer capable of producing this sized wall thickness, which in volume terms is estimated to comprise only one per cent of total HSS volume .

Mr Gleeson's letter of 4th June 2012 suggests that the CEO's final recommendation to the Minister will include this subset of goods.

Our reasons in support of our claim on exclusion of these goods include:

- Alpine's goods in question have a dumping margin of 3% only because of the goods having a wall thickness > 9mm.
- The exclusion of those goods results in Alpine's exports having a dumping margin less than 2%.
- Dumping duties should only be imposed to remove the measure of injury to the local industry.
- Dumping duties, by their very nature, are prospective.
- If our information and understanding on the current and future production capability of the local HSS producers is correct, then there is no probability of "dumping" continuing in the sense there can be no causation of injury.
- The sole industry applicant Onesteel-ATM is itself an importer of those goods from Maruichi of Japan and on our information continues to be an importer from that source.

Kembla Grange Facility (OGP)

In terms of the information we have relied on that Onesteel-ATM cannot produce RHS-SHS to AS1163 with a wall thickness of 9mm we have been informed that apart from importing such from Maruichi it also sourced those goods from the

only local producer, namely the separate legal entity, Oil and Gas Pipe business (OGP) which has since ceased local production end of May 2012 (ASX release 15/3/12).

As stated in the Onesteel ASX release dated 15th March 2012 the OGP business produced 40 to 50 thousand Tonnes per annum of pressure pipe to the oil and gas and steel distribution markets in Australia.

CBP "introduced" OGP as the "fourth" local producer of HSS vide the Onesteel-ATM site visit report based on C&BP visits to Mayfield on 11-14th October and 28th October, 2011.

"As OS Oil and Gas manufactures larger sections of HSS at its Kembla Grange facility, we consider that it also is a member of the Australian industry – **Reference para 3.5 – Visit Report**

No details were provided in regard to "larger sections of HSS".

The application in **Section A.3.3** requires the applicant – (Onesteel-ATM) to:

"fully describe your products that are 'like' to the imported product:

- include physical, technical or other properties
- etc. "

the one critical detail omitted by Onesteel-ATM is that of product wall thickness.

Onesteel-ATM never disclosed that its production capability precluded it from producing product with a wall thickness of 9mm or more.

The application merely stated that:-

"Onesteel-ATM also manufactures large diameter pipe (that competes at the large-end of the diameter range specified at A.3.1 above, at its Port Kembla facility."

This reference is clearly in regard to the Onesteel Oil and Gas Pipe facility (OGP) at Port Kembla.

Para 5.4 of the CBP visit (site) Report to Onesteel-ATM at its Mayfield facility stated that the Kembla Grange facility "is a separate legal entity to ATM".

The relevance to the Onesteel Kembla Grange OGP facility is that it was the only Australian facility capable of producing HSS with a wall thickness of 9mm or more and that Onesteel-ATM had to "buy-in" this product.

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We also rely on the requirement of s 269TC(4)(a) which in our opinion requires the applicant to fully disclose its actual production by way of a full description of the goods it actually produces and in this context Onesteel-ATM has failed to reveal the actual sizes and dimensions of the goods it can produce.

Market Segmentation

We also take this opportunity to restate previous submission on market segmentation in that our opinion, based on the CBP Visit Report is that Onesteel-ATM command a domestic price premium over all imported product and perversely, Onesteel-ATM continues to import the very goods it claims to be dumped from Maruichi of Japan and Maruichi's joint venture in Vietnam.

Para 4.2 of the C&BP Visit Report to Onesteel-ATM stated that contrary to its previous claims that the market was segmented into 'specified" and "unspecified" product, Onesteel-ATM now claims:-

“that its competition with imports is more on size, shape and finish basis than on whether product is specified or unspecified”.

That of course is how CBP treated the requested data and information Alpine supplied during the on-site Verification Visit.

The reality is that CBP has, over the duration of this Investigation, treated the HSS goods totally in accordance with its prescribed methodology, being in accordance with the applicant's apparent briefings to CBP.

In conclusion it is our opinion that the contentions different grades of HRC may affect the selling prices of the varying HSS goods produced by Alpine are not supported by either the CBP evidenced data or our assessment of those sales, albeit that it has not been possible to complete a more forensic analysis of Alpines transactions on a line by line basis.

Given that It is now clear that at this stage of what Onesteel-ATM has engineered to be a most onerous and exhausting process our attempt to demonstrate Alpine's preparedness to ensure its future exports will be non injurious is more than likely to be dismissed by CBP the effect will be that, perversely, Alpine's future exports will be penalized solely on the basis of some goods that we claim are no longer produced in Australia.

Please contact me for any clarification.

M J Howard
Representative

Email: mjh@howardconsulting.com.au

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