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By email

Dear Olivia

POSCO - aluminium zinc coated steel – goods description matter

We refer to a letter from BlueScope Steel Limited (“BlueScope”) to the Commission dated 17 March 2021 (“BlueScope reply”).¹

The BlueScope reply is in response to the POSCO’s submission titled “*Rebuttal of BlueScope response to file note*” (“our rebuttal”) of 5 March 2021 and placed on the electronic public record on 9 March 2021.²

In the BlueScope reply, BlueScope:

...submits that the most recent submission on behalf of POSCO seeks a selective examination of elements within the goods description. This selective approach excludes the key elements or particulars of the goods description that identifies the trade and generic names of the goods which includes aluminium zinc magnesium coated steel, and therefore should be ignored. Additionally, EN 10346 identifies PosMAC ‘ZM’ as included within the standard, thereby meeting the Commission’s requirement as stated in its File Note that the Standards are exhaustive (and consequently include PosMAC).

The submissions relate to a file note (“the file note”) published by the Commission,³ in which the Commission expressed its view that POSCO’s product, PosMAC, is not the goods particularly described by the initiating notice ADN No. 2020/067.

¹ BlueScope Steel Limited. Submission to investigation no. 558. *Response to ADC file note regarding PosMAC*. EPR document number 33.

² POSCO. Submission to investigation no. 558. *Rebuttal of BlueScope response to file note*. EPR document number 32.

³ Anti-Dumping Commission. File Note to investigation no. 558. *Goods under consideration*. EPR document number 28.

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In defence of the Commission’s view, which is correct, POSCO makes the following further submissions.

Firstly, BlueScope’s assertion that PosMAC is “aluminium zinc magnesium coated steel” is incorrect. PosMAC is “zinc magnesium aluminium” coated steel. BlueScope’s reply adopts the following line of argument:⁴

It is clear from the listing of trade and generic names immediately following the initial particular of the goods description that it was intended by BlueScope that the application would extend to referenced products with the trade or generic names identified (including all types of aluminium zinc magnesium coated steels).

To assist its argument, BlueScope misuses the Commission’s position on alloys in the file note:

...alloys can be a metal constituting two or more metallic elements (i.e. aluminium plus zinc and other metal elements can be presented in this alloy)...

POSCO agrees with the Commission’s statement in relation to alloys. The statement that an alloy is a mixture of metallic elements does not mean that one specific mixture is the same as another specific mixture. One specific mixture is *not* the same as another specific mixture, particularly in the coated steel industry.

“Aluminium zinc” alloys do not equate to “zinc magnesium aluminium” alloys *from a technical standpoint*. Industry convention is to name the metallic elements used to coat a steel product in decreasing order by mass. The practical reason is obvious – various steel coating composition conveys various chemical properties, and therefore various commercial applications, for the product.

There are many physical and chemical differences between the two coating types. The coating cross sectional images physically look different. There are no “aluminium rich” areas in PosMAC’s coating. There are no zinc-free areas in PosMAC’s coating. Technically speaking, PosMAC’s coating is Zn-MgZn₂-Al ternary eutectic.⁵ Please refer to the figures below.

An image of a cross section of various types of coating used on steel is reproduced from Part B-2 of our original submission:

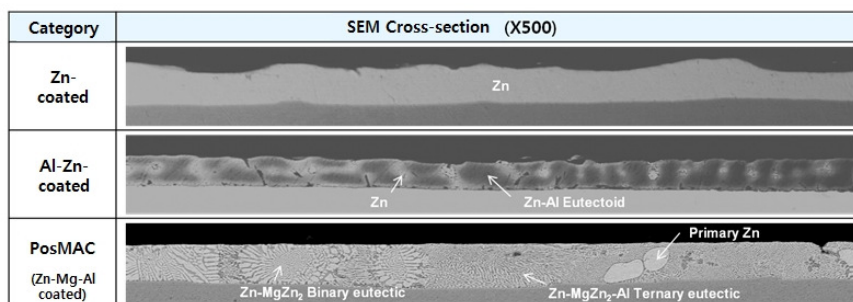


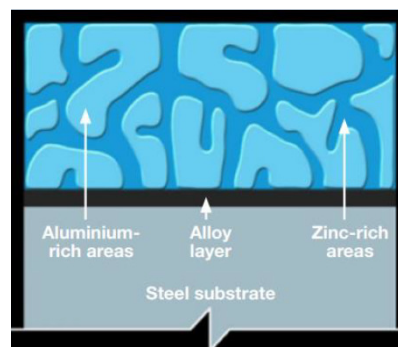
Figure 1 – cross sectional image of galvanised steel, galvalume (Al-Zn coated steel) and PosMAC)

⁴ EPR document 33 p. 2

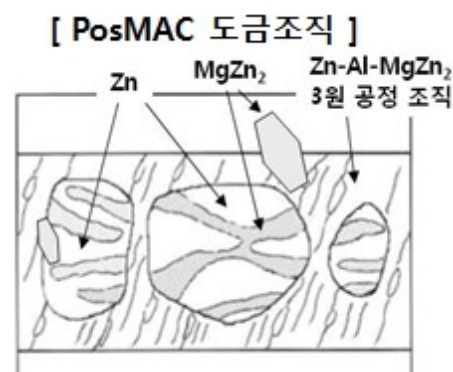
⁵ PosMAC stands for “POSCO Magnesium Alloy Coating”. It is POSCO’s proprietary steel. POSCO holds numerous (approximately 30 to 40) patents for PosMAC internationally.

These differences can be presented in a sketch format as follows:

Aluminium zinc alloy coated steel:



Zinc magnesium aluminium coated steel



BlueScope's reply adopts the following line of argument:⁶

It is clear from the listing of trade and generic names immediately following the initial particular of the goods description that it was intended by BlueScope that the application would extend to referenced products with the trade or generic names identified (including all types of aluminium zinc magnesium coated steels).

BlueScope's "intention" is not relevant in the task of interpreting the goods description. Nevertheless, in our original submission, POSCO made the following observations:

Particularisation

Trade or further generic names often used to describe the subject goods include:
 ...
 – Aluminium zinc magnesium coated steel;

Interpretation

This reference cannot be relied upon to widen the scope of the goods under the Section 269TC(4) notice, because it is wrong. "Aluminium zinc magnesium coated steel" is not a generic name for "Flat rolled iron and steel products... plated or coated with aluminium-zinc alloys". This is a *non-sequitur* and must be recognised as such. No one would say they want "aluminium zinc magnesium coated steel" when they do not want coated steel with magnesium alloy in the coating. Thus, "aluminium zinc magnesium coated steel" is not and cannot be a generic name for "aluminium-zinc coated steel".

⁶ EPR document 33 p. 2

Trade or further generic names often used to describe the subject goods include:
 ...
 – Aluzinc, Supalume, Superlume, ZAM, GALFAN;

Without detracting from anything we have already said, it is to be noted that PosMAC is not included in the list of “trade names” alleged by BlueScope to be the subject goods.

The Commission’s tendency on the goods description matter was clearly expressed in the file note. The Commission preferred a technical approach. Otherwise, the Section 269TC(4) notice would not have the legal character and meaning that it is required to have, and the scope of the investigation would have involved ambiguity and uncertainty. The Commission has relied on the list of technical international standards, *as requested and advised by BlueScope in its application for the investigation*, as the most accurate way of particularising the goods.

Secondly, POSCO has not sought a “selective examination of elements within the goods description”. POSCO has sought to apply meaning to the goods description in a manner that makes sense out of the various ways that the goods are described in the initiating notice. The international standards referred to in the goods description cover goods that are not aluminium zinc coated steel - “prefix being AZ (aluminium zinc)” - as stated by BlueScope in its application and as stated by the Commission in the goods description. This is the core issue.

Table 1 in BlueScope’s reply does not determine whether PosMAC is the goods. Table 1 in the BlueScope reply does not engage with the key issues that we have ventilated on behalf of our client. These key issues are:

The goods description states that the aluminium zinc coating on the steel is “prefix being AZ (aluminium zinc)”. This is a technical description, clearly stated in the Section 269TC9(4) notice, which has legal force. It must be interpreted literally and in its context. The paragraphs that follow directly after the use of the acronym “AZ” refer to the International Standards. This can only be interpreted to mean that the goods description includes coated steel referred to in EN 10346 as it relates to AZ coated steel. In other words, “AZ” qualifies the relevancy of international standards in the goods description because “AZ” is used by those international standards to confer a technical description of the coating composition.

and:

EN 10346 is divided into sub-categories with a parenthesized chemical composition of coating elements. We reiterate here that EN 10346 covers a broad range of coated steel, including hot-dipped galvanized steel (prefix “Z” in the standard, often called “GI”). Other international standards (namely ASTM, JIS, KS, and BIS) publish completely different standards for each subcategory, as shown in Figure 1 below.

Category	Hot Dipped Galvanised (GI)	Galvalume (Al-Zn coated)	PosMAC (Zn-Mg-Al coated)
ASTM	A653M	A792M	A1046M
EN	EN10346 (Z)	EN10346 (AZ)	EN10346 (ZM)
JIS	G3302	G3321	G3323

KS	D3506	D3770	D3030
BIS	IS 277	IS 15961	-

Figure 1 – Table of comparable international standards.

The Commission’s file note is entirely accurate, and the Commission is under no obligation to revise it.

Yours sincerely



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