



Australian Government
Anti-Dumping Commission

**Application for an
anti-circumvention inquiry
Quenched and Tempered Steel Plate
Exported from Sweden**

ANTI-DUMPING COMMISSION

Form B1231

April 2015

1

Required Information

1. Applicant

Provide details of the name, street and postal address, of the applicant seeking the inquiry.

The applicant company details are as follows:

Name: Bisalloy Steels Pty Ltd ("Bisalloy")
Address: 18 Resolution Drive, Unanderra, NSW, 2526.
ABN: 27 001 641 292

2. Contact persons

Provide details of the name of a contact person, including their position, telephone number and facsimile number, and email address.

Bisalloy Contact details:

Contact Name: Tom Matinca
Company and position: Business Development and Strategy Manager
Address: 18 Resolution Drive, Unanderra, NSW, 2526
Telephone: (02) 4272 0407
Facsimile: (02) 4272 0445
E-mail address: tom.matinca@bisalloy.com.au

Bisalloy's nominated representative:

Name: Mr John O'Connor
Representative's business: John O'Connor & Associates Pty Ltd
Address: P.O. Box 329, Coorparoo Qld 4151
Telephone: (07) 3342 1921
Facsimile: (07) 3342 1931
E-mail Address: jmoconnor@optusnet.com.au

A copy of "Authority to Represent" is included at Confidential Attachment 1.

3. Other interested parties

Provide known names, addresses, telephone and facsimile numbers of other parties likely to have an interest in this matter, e.g. Australian manufacturers, importers, exporters and end-users.

The following *exporter* of the goods the subject of this anti-circumvention application would likely have an interest in this matter:

(i) Sweden

SSAB EMEA AB
Box 70
101 21 Stockholm Sweden
Tel: +46 8 4545 700
Fax: +46 8 562 321 21

The following importer of the goods from Sweden is a related party to the exporting company in Sweden and would likely have an interest in this matter:

SSAB Swedish Steel Pty Ltd
P.O. Box 8074
32 Logan Road
Woolloongabba QLD 4102
Tel: +61 7 3891 3533

4. Goods description

Provide a description of the kind of goods that are the subject of the original notice.

The goods the subject of the notices published were as follows:

“Flat rolled products of alloyed steel plate commonly referred to as Quenched and Tempered (“Q&T”) steel plate (although some Q&T grades may not be tempered), not in coils, not further worked than hot rolled, of widths from 600mm up to and including 3,200mm, thickness between 4.5-110mm (inclusive), and length up to and including 14 metres, presented in any surface condition including but not limited to mill finished, shot blasted, primed (painted) or un-primed (unpainted), lacquered, also presented in any edge condition including but not limited to mill edge, sheared or profile cut (i.e. by Oxy, Plasma, Laser, etc.), with or without any other minor processing (e.g. drilling).

Goods of stainless steel, silicon electrical steel and high-speed steel, are excluded from the goods covered.”

In support of the goods description, Bisalloy further stated that Q&T steel plate comprises grades with typical mechanical properties as follows:

- *High Hardness/Abrasion resistant Q&T steel plate (more commonly referred to as ‘Wear’ Grade Q&T steel plate) of Brinell hardness (HBW – 10/3000) range 320-640 or equivalent Rockwell C hardness range 34 – 59 or equivalent Vickers hardness range 230-670;*
- *High Strength Q&T steel plate (commonly referred to as ‘Structural/High Tensile’ Grade Q&T steel plate) of 0.2% Proof Stress of 475-890 MPa (min); and*
- *High Hardness/Impact resistant Armour Grades (more commonly referred to as ‘Armour’ Grade Q&T steel plate) of hardness up to 640 Brinell (HBW – 10/3000).*

To clarify the goods description further, Bisalloy nominated that Q&T steel plate has chemical compositions up to:

- *Carbon Max – 0.5%;*
- *Manganese Max – 2.5%;*
- *Silicon Max – 0.65%;*
- *Sulphur Max – 0.04%;*
- *Phosphorus Max – 0.04%;*
- *Nickel Max – 3.0%;*
- *Chromium Max – 3.0%;*
- *Molybdenum Max – 2.0%;*
- *Vanadium Max – 0.2%;*
- *Boron Max – 0.01%;*
- *Aluminium Max – 0.1%;*
- *Titanium Max – 0.1%;*
- *Copper Max – 0.5%;*
- *Niobium Max – 0.1%.*

The percentage of the above individual alloying elements may vary in accordance with each manufacturer’s grade specifications and not all elements may be utilised in all Q&T

steel plate grades. Additional other quantities of trace elements up to a max 0.1% each may also be utilised or found (as trace elements) in Q&T steel plate.

5. Description of original notice

Provide a description of the original notice, including:

- *whether the notice was a dumping and/or countervailing notice;*
- *the tariff classification/s of the goods;*
- *the countries and/or exporters covered by the notice; and*
- *the date of publication of the notice.*

The description of the goods the subject of this anti-circumvention application is included above. The original notice included goods the subject of a dumping investigation on exports from Finland, Japan and Sweden. This application for anti-circumvention relates to dumped exports from Sweden only.

Q&T steel plate is classified to tariff subheading 7225.40.00 (statistical codes 21 – high alloy: quenched and tempered; and 23 – other: quenched and tempered). During its investigation, the Anti-Dumping Commission (“the Commission”) also identified, in relation to a small volume of imports, some Q&T steel plate was classified to tariff subheading 7225.99.00 during the investigation period. This subheading refers to other flat rolled products of other alloy steel of a width of 600mm or more, not specified or included in preceding tariff subheadings.

For tariff subheadings 7225.40.00 and 7225.99.00 the general rate of duty of 5 per cent is applicable to exports from Sweden.

A notice advising of the Parliamentary Secretary to the Industry Minister’s decision to apply anti-dumping duties was published in *The Australian* on 5 November 2014. Anti-Dumping Notice No. 2014/123 notified the Parliamentary Secretary’s decision on 5 November 2014. The public notice of the Parliamentary Secretary’s decision, however, was dated 28 October 2014 (See attached at Non-Confidential Attachment 2).

6. Detailed Statement

Provide a detailed statement regarding the circumvention activities in relation to the original notice that you consider have occurred. Applicants must provide evidence to support your view that there are reasonable grounds for asserting that one or more circumvention activities in relation to the notice have occurred.

Anti-dumping measures

On 20 November 2013 Bisalloy Steels Pty Ltd (“Bisalloy”) made an application for anti-dumping measures in respect of Quenched and Tempered (“Q&T”) steel plate exported to Australia from Finland, Japan and Sweden. Following investigation by the Commission, the Parliamentary Secretary to the Industry Minister accepted the Commission’s report and recommendations confirming that exports of Q&T steel plate from Finland, Japan and Sweden were at dumped prices, the Australian industry had suffered material injury from the dumping, and that a causal link between the dumping and injury existed.

The Parliamentary Secretary accepted the Commission’s recommendations that a dumping duty notice be published in respect of Q&T steel plate exported to Australia from Finland, Japan and Sweden.

Anti-circumvention activity

Bisalloy submits that reasonable grounds exist to demonstrate that a circumvention activity involving Q&T steel plate exports from Sweden has occurred, and is occurring, involving the avoidance of the intended effect of the duties.

In its submission in response to Statement of Essential Facts (“SEF”) No. 234 dated 12 September 2014,

Bisalloy contended that “following the imposition of measures, monthly export prices¹ have further declined on average while volumes i.e. tonnes, have remained at similar monthly levels²”. Bisalloy further stated that post the provisional securities in May 2014, declared export prices (from all three countries – Finland, Japan and Sweden) continued to decline³.

Following the Parliamentary Secretary’s decision to impose interim anti-dumping duties on 28 October 2014, Bisalloy observed continued ongoing aggressive pricing for Q&T steel plate exports from the Swedish exporter SSAB EMEA AB (“SSAB”) with no apparent adjustment to prices to account for the applicable measures.

SSAB is the single largest exporter of Q&T steel plate to Australia. Exports from Sweden have been the largest source of supply in the investigation period and in the subsequent eighteen month period. The Commission determined that SSAB exported “all but a small volume” of Q&T steel plate to Australia via its related entity SSAB Swedish Steel Pte Ltd (SSAB Singapore). The Commission further determined that for the export sales to Australia from SSAB to its related party importer SSAB Singapore, the sales were “not arm’s length transactions” and could not be relied upon for the purposes of determining actual export prices for SSAB’s exports to Australia.

The Commission calculated SSAB’s export prices to Australia (i.e. deductive export prices) based upon the selling prices at the first sales point outside the SSAB Group structure (i.e. to an unrelated party) less deductions to arrive at an FOB export price. Following the imposition of provisional measures in May 2014, export volumes of Q&T steel plate from Sweden have continued.

Export Prices

Bisalloy maintains the view first expressed in its submission of 12 September 2014 (EPR85) that Q&T steel plate export prices from Sweden have not altered in accordance with the level of provisional measures or the quantum of interim duties imposed by the Parliamentary Secretary. Bisalloy submits that the related party exporter in Sweden and the associated importer, are circumventing the intended effect of the interim dumping duties, selling at a loss, and continuing to cause material injury to the Australian industry producing like goods. The failure of SSAB EMEA AB to adjust its export prices to Australia has meant that Bisalloy has continued to sell locally produced Q&T steel plate at depressed and suppressed selling prices after the interim duties were applied.

The following Table 1 contrasts export prices during the investigation period with export prices over the twelve months following the imposition of provisional measures.

Table 1 – Export prices – Investigation period v post imposition of measures

Country	Weighted average Export Price – Jan’13-Dec’13	Weighted average Export Price 2014/15	% Change
Sweden	A\$1815	A\$1474	- 18.8%

Notes:

1. Investigation period was calendar year 2013;
2. 2014/15 period is June 2014 to May 2015 inclusive (i.e. post imposition of provisional measures in May 2014).

Table 1 confirms that the Swedish exporter of the Q&T steel plate the subject of anti-dumping measures has reduced export prices to Australia in the period immediately following the imposition of measures. Bisalloy has observed from the market that the selling prices of imported Q&T steel plate from Sweden have not increased following the Parliamentary Secretary’s decision to apply interim dumping duties. The market selling prices do not reflect the level of measures applied that were intended to correct the unfair selling prices of the dumped exports. Additionally, Bisalloy submits that the Australian importer is

¹ As reflected in monthly Australian Bureau of Statistics data. Refer ABS Import data – Confidential Attachment 3.

² Bisalloy submission dated 12 September 2014, P.5.

³ Bisalloy submission EPR94 dated 23 September 2014

selling the imported goods at a loss (see further below). Bisalloy therefore continues to compete with dumped and injurious prices following the imposition of the measures.

It will be recalled from Bisalloy's original application for measures that Bisalloy did not consider monthly published Australian Bureau of Statistics ("ABS") FOB export prices to be reliable. Bisalloy calculated deductive export prices for Finland, Japan and Sweden, based upon market offers for the exported goods from the nominated countries. The Commission determined that the Swedish exporter SSAB's export prices were not arm's length transactions and it similarly determined SSAB's export prices based upon selling prices from SSAB to *unrelated* parties. The Commission determined dumping margins of approximately 34 per cent for SSAB's exports to Australia during 2013.

Export prices for the countries under consideration were assessed by the Commission for the 2013 investigation period in Investigation No. 234. The export prices have not been reviewed since the original inquiry. A single export price applies to the goods exported from each country, by the respective exporter. Bisalloy is not aware of the ascertained export price ("AEP") determined by the Commission for Q&T steel plate exports from Sweden due to confidentiality. For Sweden, the Commission determined AEPs based upon deductive export prices calculated from selling prices to unrelated parties on the Australian market.

To demonstrate that export prices have not moved in line with the level of measures applied by the Parliamentary Secretary, Bisalloy has contrasted export price information (i.e. deductive export price data for Sweden) from the investigation period through to the date of imposition of provisional measures (i.e. May 2014) and post the imposition of the provisional measures.

It should be noted that the Commission determined significant dumping margins for exports of Q&T steel plate from Sweden during the investigation period of 34 per cent.

The comparison of the declared export prices (sourced from ABS) are reflected in Table 2 below:

Table 2 – Export Prices from Sweden – pre and post Imposition of Measures (i.e. May 2014)

	Jan 2013-Dec 2013	June 14 – Jun 15	% Change
Sweden Av. A\$FOB Price	1816	1474	-18.8%
Sweden Tonnes	17,062	11,101	-34.9

Notes:

1. Sweden export prices and tonnes based on ABS data.

Table 2 confirms that export prices (as declared upon importation) for all exports from Sweden have declined following the imposition of measures.

The anti-dumping measures applied to exports from Sweden by the Parliamentary Secretary based upon the combination method (i.e. a fixed and variable component). It was expected by Bisalloy that the export prices would not decline below the level determined for the investigation period, as measures based upon the combination method include a floor price that operates as a disincentive to exporters further reducing export prices.

Bisalloy's expectation has not been realised in respect of the export prices for Q&T steel plate exported from Sweden, following the imposition of measures.

It is apparent from the market selling prices for SSAB Sweden's Q&T steel plate that the 9.6 per cent anti-dumping measures is not reflected in the declared ABS FOB prices post May 2014. Additionally, in respect to exports from Sweden, Bisalloy submits that the Australian importer SSAB Swedish Steels Pty Ltd has not altered its market selling price for imported Q&T steel plate following the application of the measures.

Table 3 details deductive export price calculations for Q&T steel plate (10-50mm Thick Wear grade - 400/450 BHN & and Structural grade 690-700MPa) sold by SSAB Swedish Steels (sourced from Sweden) on the Australian market in the periods following the imposition of the provisional

measures in May 2014, and the application by the Parliamentary Secretary of interim dumping duties from 28 October 2014 (with effect after 5 November 2014).

Table 3 – Deductive Export Prices – Sweden July 14 to Jun 15

	Jul-Sep 14	Oct-Dec 14	Jan-Mar 15	Apr-Jun 15
MKT Selling Price	xxxx	xxxx	xxxx	xxxx
DEP	1232	1298	1298	1188

Notes:

1. DEP is deductive export price;
2. Deductions from selling price to FOB price are disclosed at Confidential Attachment 4 (i.e. Deductive Export price calculations).

Bisalloy highlights to the Commission the continued variance between the deductive export prices and the export prices declared to the ABS for Q&T steel plate exports from Sweden. There exists an approximate 16 per cent differential between the two export price methodologies. The Commission has previously determined that due to the relationship between the Swedish exporter and the Australian importer, the declared export prices as published by ABS are non-arm's length and are impacted by the relationship.

Bisalloy submits that declared export prices for Swedish Q&T steel plate continue to be affected by the relationship between the exporter and the importer and are unreliable in the period post May 2014. It is therefore necessary to rely upon the deductive export price calculations for Swedish Q&T steel plate exports to Australia.

A comparison of the deductive export prices calculated by Bisalloy from market offers in 2013 (based upon selling prices ranging from \$Axxxx to \$Axxxx per metric tonne for Grade 400/450 BHN and 690 – 700MPA, that accounts for approximately xx per cent of sales) compared with those determined for the period July 2014 to June 2015, highlights a minimal increase of xx per cent (i.e. approximately A\$xxxx per tonne deductive export price for 2014/15 versus A\$xxxx per tonne for 2013). Market selling prices by SSAB Swedish Steel Pty Ltd have remained relatively static for the periods prior to, and post, the imposition of measures.

Price undercutting

It should also be considered by the Commission that the market offers by SSAB Swedish Steels Pty Ltd continue to undercut the selling prices of Bisalloy. The following Table 4 contrasts the SSAB Swedish Steels Pty Ltd price offers by quarter, with Bisalloy's selling prices in the twelve months following the imposition of provisional measures (in May 2014).

Table 4 – Bisalloy selling prices v SSAB Swedish Steels Pty Ltd offers

	Jul-Sep 14	Oct-Dec 14	Jan-Mar 15	Apr – Jun 15
Bisalloy Price	Xxxx	Xxxx	Xxxx	Xxxx
SSAB Price Offer	Xxxx	Xxxx	Xxxx	Xxxx
Difference	xxxx	xxxx	xxxx	Xxxx

Notes:

1. Bisalloy prices are for Bisalloy Grades xxx, xxx and xxx that accounts for approx xx per cent of total sales;
2. SSAB prices are for Hardox 450 and Weldox 700 grades – refer market quotations at Confidential Attachment 4.
3. July-Sept 2014 price of \$xxxx based upon SSAB offer to [entity] Weldox 700 and Hardox 450 at \$xxxx delivered, [location] in August 2014 – See Monthly sales reports July, August, December 2014, May & June 2015 2015 at Confidential Attachment 5.1 to 5.7.
4. Oct-Dec 2014 price of \$xxxx sourced from Dec 2014 monthly sales report identifying a [agent] quoting SSAB offering Hardox 450 at \$xxxx-xxxx per metric tonne in the [size] mm range.
5. Jan-Mar 2015 price of \$xxxx is based upon December 2014 Sales Report.

6. Apr-Jun 2015 price of \$xxxx sourced from May 2015 report that confirms Swedish Hardox 450 at [entity] of around \$xxxx per metric tonne. Bisalloy had opportunity to match SSAB price of \$xxxx at [entity].

Table 4 demonstrates that the selling prices offered by SSAB Swedish Steels Pty Ltd undercut Bisalloy's selling prices for equivalent model goods by between \$xxx and \$xxx per metric tonne during 2014/15, resulting in further material injury to Bisalloy.

Bisalloy's monthly sales reports confirm prices for Swedish SSAB Hardox 450 supplied to accounts against Bisalloy at prices that reflect the same or less levels as the 2013 investigation period. The analysis in Table 4 confirms that the anti-dumping measures applied by the Parliamentary Secretary have not been reflected in export prices and/or selling prices for Swedish Q&T steel plate.

In summary, the application of the 9.6 per cent anti-dumping measure (applied on a combination duty methodology) has had minimal impact on Q&T steel plate export prices to Australia from Sweden, and marginal impact on market selling prices for Swedish Q&T steel plate to end-users.

Losses of Australian importer

Bisalloy has obtained the recent ASIC Report Form 388 disclosing the financial statements for the year ending 31 December 2014 for SSAB Swedish Steel Pty Ltd⁴. The annual return signed and dated 27 April 2015 confirms that in 2014 SSAB Swedish Steel Pty Ltd has incurred a loss of \$3.8 million (additional to the loss of A\$3.3 million in 2013). It is further noted in the declared principal activities of the company that SSAB Swedish Steel Pty Ltd is involved in the "purchase and sale of quenched and tempered steel"⁵.

The activities of SSAB Swedish Steel Pty Ltd are related primarily to the importation and sale of Q&T steel plate. The ongoing losses incurred by the Australian importer are due to the price paid to its related party exporter for Q&T steel plate purchases that are not recoverable in the market selling prices offered by the Australian importer. The ongoing losses confirm that the declared export prices are not recoverable in the selling prices in the Australian market, and are therefore unreliable for the purposes of assessing whether the goods have been exported at dumped prices. This has been confirmed by SSAB EMEA itself in its submission EPR93 dated 16th September 2014 on ADC234 where SSAB stated as following⁶:

"SSAB firstly wishes to emphasise that the "materiality" of the Swedish dumping margin is essentially a result of the higher domestic market prices within Sweden. It was not a result of "unprofitable" sales to Australia from the collective perspective of the SSAB group of companies that were involved in making those sales. Based on a flow-through analysis of the costs of SSAB EMEA AB ("SSAB EMEA") as manufacturer, SSAB Swedish Steel Pty Ltd as trader intermediary and SSAB Swedish Steel Pty Limited as Australian distributor, the export sales were profitable.

Although it is conceded that those sales were profitable to a lesser extent than the comparative domestic sales, SSAB does not wish it to be thought that the relevant companies were collectively losing money on their Australia-destined sales. That was not the case."

Bisalloy draws to the Commission's attention the market selling price offers for imported Q&T steel plate sourced from Sweden of A\$xxxx to A\$xxxx in the July 2014 to June 2015 period (see Table 3 above). The declared ABS average import prices over this same period are at the A\$1474 level. It is clear that the market selling prices offered by SSAB Swedish Steel Pty Ltd do not recover all the costs, including the declared export price as shown in ABS data.

The ongoing losses incurred by SSAB Swedish Steel Pty Ltd establish that the importer is selling

⁴ Refer Confidential Attachment 5 – 2014 ASIC Return for SSAB Swedish Steel Pty Ltd.

⁵ Refer SSAB Swedish Steel Pty Ltd annual return to ASIC, P. 1.

⁶ Attached at Non-Confidential Attachment 6.

imported Q&T steel plate at a loss, and continues to do so following the imposition of the anti-dumping measures.

Bisalloy submits that the Commission must again assess deductive export prices for exports of steel plate from Sweden to Australia from the market selling prices of the importer (SSAB Swedish Steel Pty Ltd) to unrelated parties in Australia to determine correct and accurate export prices to Australia for Q&T steel plate that have avoided the intended effect of the duties applied.

Remedial action required

Bisalloy has demonstrated that the exporter of Q&T steel plate in Sweden (SSAB EMEA AB) has circumvented the anti-dumping measures applied by the Parliamentary Secretary. The prices offered by SSAB Swedish Steel Pty Ltd to customers in the Australian market do not reflect prices commensurate with non-dumped levels, and do not reflect the levels of dumping duties applied. Additionally, it is evidenced that the sales by the importer are at a loss, and continue to be at a loss following the imposition of the measures.

As a consequence of the Swedish exporter avoiding the intended effect of the anti-dumping measures applied by the Parliamentary Secretary, Bisalloy has continued to experience material injury from the dumped exports. Bisalloy therefore requests the Commission to recommend to the Parliamentary Secretary that following an anti-circumvention investigation that the recommended remedial measures reflect the **full** margin of dumping. Bisalloy is seeking the Commission to recommend to the Parliamentary Secretary that the discretionary 'lesser duty rule' be set aside for the Swedish exporter found to have circumvented the intended effect of the measures.

Further consideration is also required in respect of the form of the anti-dumping measure to be applied, and the level of the ascertained export price. Both matters are discussed further below.

Bisalloy has demonstrated that the Swedish exporter has not altered its export prices in accordance with the level of measures applied by the Parliamentary Secretary. Additionally, it is also evidenced that the Australian importer has incurred ongoing losses in 2014 (and continuing in 2015) as it continues to supply the Australian market with dumped Q&T steel plate imported from Sweden.

The anti-dumping measures applied by the Parliamentary Secretary are being absorbed by the importer and not reflected in the selling prices to customers on the Australian market.

The anti-dumping measures have not acted as a sufficient deterrent to the activities of the importer of Q&T steel plate from Sweden. In light of this, the Commission is requested to re-ascertain the export prices for Q&T steel plate from Sweden and reflect the correct export price as represented in SSAB Swedish Steel Pty Ltd's selling prices to non-related customers in Australia.

7. Description of altered notice

Provide a description of the alterations to the original notice that you consider should be made.

Selling prices offered by SSAB Swedish Steel Pty Ltd for imported Q&T steel plate from Sweden do not reflect the declared A\$FOB export prices as published in ABS data. Additionally, the selling prices do not reflect the imposition of the interim dumping duties applied by the Parliamentary Secretary with effect from 5 November 2014.

Bisalloy has demonstrated that the selling prices on the Australian market for Q&T steel plate exported from Sweden do not reflect prices commensurate with the interim dumping duties imposed. Bisalloy further submits by this application that there is sufficient evidence that Q&T steel plate from Sweden has circumvented the intended effect of the anti-dumping measures, the imports have been sold at a loss, and that the exports have continued to cause material injury to the Australian industry producing like goods.

Bisalloy requests the Commission to amend the ascertained export prices ("AEPs") for Q&T steel plate exported from Sweden and apply revised deductive AEP's based upon recent selling prices

for the exported goods on the Australian market. A comparison of the deductive export prices with previously ascertained AEPs from the investigation period will confirm the amount by which the anti-dumping measures have been circumvented. This 'shortfall' amount can then be added to the measures previously determined by the Parliamentary Secretary.

Additionally, Bisalloy requests the Commission to recommend to the Parliamentary Secretary that it is appropriate in the present circumstances for the Parliamentary Secretary to exercise her discretion to not apply the 'lesser duty rule' to exports from Sweden and that the revised measures reflect the full margin of dumping for exports from Sweden.

It is noted by Bisalloy that in Investigation No. 241 the Parliamentary Secretary revised the notices with effect from the date of commencement of the anti-circumvention inquiry. Bisalloy requests that the effective date of the re-ascertained measures take effect from the date of commencement of the anti-circumvention inquiry for Q&T steel plate exported from Sweden. Relief from the impact of the circumvention activities is essential in limiting further material injury to the Australian industry manufacturing like goods.