



## **ANTI-DUMPING NOTICE NO. 2015/140**

### **Certain quenched and tempered steel plate exported from Sweden**

### **Anti-circumvention inquiry into the avoidance of the intended effect of duty**

### **Revocation of decision under subsection 269ZDBE(4) and Decision under subsection 269ZDBE(1)**

#### ***Customs Act 1901 – Part XVB***

This Anti-Dumping Notice is to advise that I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have revoked my decision to conduct an anti-circumvention inquiry under subsection 269ZDBE(4) of the *Customs Act 1901* (the Act). This inquiry concerned an application from Bisalloy Steels Pty Ltd (Bisalloy) alleging circumvention activity in the form of the avoidance of the intended effect of duty on certain quenched and tempered steel plate (the goods) exported from Sweden. I have now made a decision to reject the application under subsection 269ZDBE(1) of the Act. My decision and the reasons for my decision are set out below.

#### **Background**

On 5 November 2014, the then Parliamentary Secretary to the Minister for Industry and Science published a dumping duty notice under subsections 269TG(1) and 269TG(2) of the Act in relation to the goods exported from Finland, Japan and Sweden.

On 24 July 2015, Bisalloy, lodged an application under subsection 269ZDBC(1) of the Act. In its application Bisalloy claimed that circumvention activity in the form of avoidance of the intended effect of duty under subsection 269ZDBB(5A) of the Act had occurred in relation to the notice published under subsection 269TG(2) of the Act.

After examining Bisalloy's application, I decided not to reject the application because I was satisfied, among other things, that under subsection 269ZDBE(2)(b) of the Act, there appeared to be reasonable grounds for Bisalloy to assert that circumvention activity under subsection 269ZDBB(5A) of the Act had occurred.

As I decided not to reject Bisalloy's application, on 19 August 2015, I published a notice in *The Australian* under subsection 269ZDBE(4) of the Act to advise that an anti-circumvention inquiry would be conducted. Further details can be found in Anti-Dumping Notice No. 2015/98 at [www.adcommission.gov.au](http://www.adcommission.gov.au).

### **Revocation of decision under subsection 269ZDBE(4) and decision under subsection 269ZDBE(1)**

Subsequent to initiating the inquiry, I have determined that my decision to conduct this anti-circumvention inquiry was made in error because:

- circumvention activity under subsection 269ZDBB(5A) of the Act, in relation to a notice published under subsection 269TG(2) of the Act, occurs if, among other things, *'an importer of [the goods], whether directly or through an associate or associates, sells those goods in Australia without increasing the price commensurate with the total amount of duty payable on [the goods] under the [Customs Tariff (Anti-Dumping) Act 1975 (Dumping Duty Act)]'*;
- when I made my decision on 19 August 2015, the duty payable for the purposes of subsection 269ZDBB(5A) of the Act had not been determined for the purposes of section 269Y of the Act and subsection 8(6) of the Dumping Duty Act; and
- as a result, in relation to subsection 269ZDBE(2)(b) of the Act, there did not appear to be reasonable grounds for asserting that circumvention activity under subsection 269ZDBB(5A) of the Act had occurred.

For the reasons above, on 19 August 2015, I could not have been satisfied under subsection 269ZDBE(2)(b) of the Act that there appeared to be reasonable grounds for asserting that circumvention activity under subsection 269ZDBB(5A) of the Act had occurred. Therefore, I:

- consider my decision to conduct this anti-circumvention inquiry under subsection 269ZDBE(4) of the Act to be void *ab initio*;
- revoke my decision under subsection 269ZDBE(4) of the Act;
- revoke the notice published under subsection 269ZDBE(4) of the Act; and
- decide under subsection 269ZDBE(1) of the Act to reject Bisalloy's application.

As a result of my decision under subsection 269ZDBE(1) of the Act, the anti-circumvention inquiry initiated on 19 August 2015 ceases.

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2419, fax number +61 3 8539 2499 or email at [operations1@adcommission.gov.au](mailto:operations1@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission  
27 November 2015