



4 April 2014

Ms Kerry Taylor  
Director Operations 3  
Anti-Dumping Commission  
1010 La Trobe Street,  
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Australia

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Attention: Kerry Taylor

#### Public File

Dear Ms Taylor,

**Re: Quenched & Tempered Steel Plate exported from Sweden, Japan and Finland – Bisalloy comments re submissions by - Ruukki Metals Oy**

#### Executive Summary

Bisalloy Steels Pty Ltd ("Bisalloy") has examined submissions dated 17 February 2014 and 6 March 2014 by the Finnish exporter of Q&T steel plate, Ruukki Metals Oy ("Ruukki"). This submission establishes the following:

- exports of Q&T steel plate to Australia by Ruukki – by its own admission – have been at dumped prices;
- normal values for Ruukki are required to be established in accordance with the legislative provisions within the Customs Act, with appropriate adjustments made only in accordance with s.269TAC(8);
- adjustments to Ruukki's normal values can only be made upon satisfactory evidence confirming the existence of price differentials on the domestic market (i.e. level of trade) and cost information (for certain claimed services), as they relate to the goods under consideration only;
- the available evidence indicates that the alleged dumped exports from Sweden, Japan and Finland have caused material injury to the Australian industry producing 'like goods'; and
- a PAD imposing provisional measures is required at the earliest opportunity to mitigate further injury from the alleged dumped exports from Sweden, Japan and Finland.

#### Introduction

The submissions by Ruukki are considered by Bisalloy ("the Australian Industry") to contain incorrect and/or inaccurate information/claims regarding 'like goods', i.e. Quenched and Tempered (Q&T) Steel Plate exported from Finland, the subject of the current investigation.

These incorrect and/or inaccurate assertions/claims are summarised below. Bisalloy requests the Anti-Dumping Commission ("the Commission") to dismiss the assertions/claims made by Ruukki which are considered by Bisalloy to be misrepresentative of the facts concerning exports to Australia by Ruukki from Finland.

#### 1. General – Submissions of 17 February and 6 March 2014

Ruukki claims that it 'Aims into long lasting market presence in the Australian market with high quality niche products focusing on the quality of the products and services; not the low price'<sup>1</sup> (sic).

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<sup>1</sup> Ruukki submission, 17 February 2014, P.2.

The Australian Industry considers that while Ruukki's stated aim is to have a long lasting market presence in the Australian market, its actions to establish this presence have indeed been facilitated via the offering of low prices, adding support to the Australian Industry's claim of dumping by Ruukki. The offering of lower prices is a common place strategy for new market entrants, such as Ruukki, who are looking to establish a presence in a foreign market. However, such actions can also force other suppliers to reduce prices in order to maintain their market shares, contributing to the increased incidence of dumping (and subsequent material injury to the Australian Industry).

The Australian Industry contends that the dumping by Ruukki of Q&T steel plate into the Australian market place is further supported by Ruukki's claim that **'Ruukki sees that these (Finnish domestic) prices are not comparable (with export prices) without proper adjustments<sup>2</sup>'** as described and presented by Ruukki. Bisalloy interprets these statements as an apparent admission by Ruukki to the dumping of Q&T steel plate into the Australian market and supportive of the Australian Industry's claims of dumping by Ruukki, as well as other foreign exporters who have responded with similar price undercutting of Q&T steel plate within the Australian market.

As it is conceded that dumping is occurring, Bisalloy respectfully requests the Commission to apply 'Preliminary Measures' in accordance with the full margins identified in Bisalloy's application (for all exporters), in order to mitigate on-going material injury to the Australian Industry through continued dumping of Q&T steel plate by Ruukki, and other nominated exporters.

## **2. Goods under Investigation**

Ruukki claim that it is not correct that there is a production likeness between their 'like goods' and the Australian Industry's, stating in the first instance the reasoning that **'Ruukki uses an integrated blast furnace production route which offers economies of scale over a greenfeed production model used by Bisalloy<sup>3</sup>'**.

Bisalloy submits that its greenfeed steel plate is also produced through a blast furnace operated by major integrated steel producers. However, unlike Ruukki and integrated steel producers who manufacture Q&T steel plate, Bisalloy does not share the same inefficiencies of scale currently associated with some integrated steel makers but instead benefits from market competition among its quality proven greenfeed steel plate suppliers.

Ruukki further claims that **'Secondly for producing the Goods Ruukki uses a Direct Quenching process which leads to a different cost structure<sup>4</sup>'**, detailing the cost advantages over the Australian Industry such as reheating of plates, no extra buildings, no extra personnel, simple logistics etc.

Bisalloy does not agree with Ruukki's assertions that the slightly different manufacturing processes of an integrated Q&T steel plate producer versus a green feed steel plate producer results in the finished goods not being alike. Specifically, Bisalloy considers:

- a. A significant portion of Ruukki Q&T steel plate exported to the Australian market is still manufactured by the same production route as the Australian Industry. Therefore the claimed cost advantages are not consistent across all of Ruukki's like goods exported to Australia.
- b. Other detailed cost advantages claimed by Ruukki are not as significant as raw materials, energy and shipping. The Direct Quench (DQ) process therefore does not offer any overall material cost advantages over that of the Australian Industry.
- c. Ruukki's exports of Q&T steel plate and the Q&T steel plate of the Australian industry are 'alike' in all respect and are interchangeable in all end-use applications on the Australian market.

<sup>2</sup> Ruukki submission 6 March 2014, P. 2.

<sup>3</sup> Ruukki submission 17 February 2014, P. 3.

<sup>4</sup> Ruukki submission 17 February 2014, P. 3.



### 3. Normal value

Ruukki claims that its 'Normal Value' price for 'like goods' is only higher than its FOB Export price when **'Ruukki's conception of the Normal Value'** is taken into consideration.

Bisalloy considers that Ruukki's conception of 'Normal Value' is flawed (and does not take into account Ruukki's fully-absorbed cost-to-make-and-sell like goods in Finland during the investigation period) and should be rejected by the Commission. It is also asserted by Ruukki that Bisalloy has "overestimated" Ruukki's CTM&S for the period. Whilst Bisalloy disagrees with Ruukki's comment, there is insufficient information provided by Ruukki in its submission to enable Bisalloy to comment whether the claimed cost benefits are reasonable.

Ruukki's claims regarding exchange rate effects are considered by Bisalloy to be dismissive of the fact that the Australian dollar depreciated during the year, thereby making imports from Finland more expensive as the investigation period unfolded. Bisalloy's application evidenced falling prices on the Australian market during 2013 - a trend that is contrary to a weakening Australian dollar and an expectation that imports (from Finland) would become more expensive throughout the period.

Ruukki also states that **'the domestic (Finnish) prices of the goods are not comparable with the Australian export prices because of the situation in their domestic market'**<sup>5</sup>.

Bisalloy does not consider that Ruukki is suggesting that a particular "market situation" prevails in Finland as raw material prices for inputs, for example, are not influenced by the government. However, Bisalloy does not view the comments of Ruukki concerning the higher domestic prices in Finland as inconsistent with pricing that would be anticipated with a sole producer in a home market exporting country.

This concession that Ruukki considers its domestic prices to be above export prices for like goods to Australia is as expected by Bisalloy (i.e. exports are at dumped prices). Bisalloy urges the Commission to exercise care when assessing claims for adjustment to normal value by Ruukki to ensure that only cost differences/expenses that are legitimately linked to domestic sales only are made.

### 4. Alleged injury to Australian Industry

Ruukki has claimed it **'has followed the market price: not setting it'** and therefore Ruukki has not been involved in any price depression and/or price suppression.

The Australian Industry has provided supportive evidence of price undercutting that clearly indicates that Ruukki has in fact been influential in establishing the market price for like goods for certain periods within the investigation period. Furthermore, this evidence confirms that at times Ruukki has been the 'lowest price setter' which is contrary to Ruukki's claim that it sells on quality and service. The Australian Industry therefore requests the Commission to disregard the claim by Ruukki that it has not been influential in reducing prices for Q&T steel plate in Australia during the investigation period. The available evidence suggests that Ruukki has been influential in reducing prices and has contributed to the price depression experienced by the Australian industry.

Ruukki's additional claims that **'Material injury as not being substantial and 'unfounded when the Australian Industry has in fact reached its long term revenues and profitability level during the investigation period'**<sup>6</sup>.

Bisalloy rejects Ruukki's claims that the material injury experienced by the Australian Industry during the investigation period is nothing more than would be experienced during the normal ebb and flow of business. Bisalloy's trend data in respect of revenues and profit and profitability data confirms this not to be the case.

<sup>5</sup> Ruukki submission, 17 February 2014, P. 6.

<sup>6</sup> Ruukki submission, 17 February 2014, P. 8.

Similarly, Ruukki's claims that the Australian industry has achieved its long-term revenue and profitability levels are incorrect.

## 5. Causality

Ruukki's various claims conclude with **'it is evident that other factors besides the alleged dumping exist which on its own explain the injury that Australian Industry may have suffered'. The evidence of causality can by no means be considered clear and therefore the Commission/Minister must not decide upon any dumping duties<sup>7</sup>.**

Bisalloy submits that Ruukki's claims on causal link disregard the facts that confirm dumped exports of Q&T steel plate sourced from Sweden, Japan and Finland during the 2013 investigation period have suppressed market selling prices in Australia, resulting in a diminution of profit and profitability in 2013. The impact of the injurious dumping in a contracting market is considered to be far more harmful than in a market experiencing growth.

Bisalloy contends that the available information on the price-impact of the dumped exports from Sweden, Japan and Finland extends beyond the normal ebb and flow of business and that Bisalloy has been forced to respond to dumped competitive offers for imported Q&T steel plate in order that it may maintain sales volumes and market share. As a consequence, Bisalloy has experienced a reduction in margin, contributing to reduced profit and profitability.

Ruukki's assertions on causal link and material injury are intended to detract from the company's exports to Australia having been made at dumped prices.

## 6. Dumping margin and NIP ( Non Injurious price)

The claim by Ruukki that if the **'Commission/Minister considers that there has been dumping of Goods and that there has been material injury to Australian industry due to such dumping, "the lesser duty rule" must be applied<sup>8</sup>.**

Bisalloy understands that the Commission will examine whether it is appropriate to take account of the lesser duty rule in the current investigation.

## 7. Ruukki Submission of 6 March 2014

**Ruukki sees that the 'Sales price – comparison between the Australian export price and the domestic price for the Goods are not comparable without proper adjustments which are described below in detail<sup>9</sup>.**

Bisalloy considers each one of Ruukki's proposed adjustments are irrelevant to the construction of Normal Values for Q&T Steel Plate in Finland on the following basis:-

### (a) *Level of trade and proximity of the steel mill*

Ruukki's submission presents certain costs contributing to Ruukki's stated higher domestic prices of like goods compared to their FOB Export prices include shorter lead times, smaller lot sizes, greater stockholding costs, higher levels of service etc., all add to significant costs that increase their domestic prices compared to Ruukki doing business in Australia.

<sup>7</sup> Ruukki submission, 17 February 2014, P.12.

<sup>8</sup> Ruukki submission, 17 February 2014, P.13.

<sup>9</sup> Ruukki submission, 6 March 2014, P.2.



The costs identified by Ruukki do not specifically identify sales at different levels of trade between domestic and export markets. It is therefore not clear whether Ruukki is seeking an adjustment for 'level of trade' pricing differentials.

As indicated above, Bisalloy understands that the Commission will only apply s.269TAC(8) of the Customs Act adjustments to cost differences that can be demonstrated as having occurred on one market (e.g. domestic market) and are absent for sales in another market (e.g. export market).

An adjustment for level of trade can only be made where it can be demonstrated that there exists a price differential for sales on the domestic market for like goods. In the absence of an observable price differential, no adjustment is to be considered.

Bisalloy submits that the claimed expenses identified by Ruukki on the domestic market must be supported by evidence demonstrating that the costs incurred related to domestic sales of like goods only. In the absence of clear supporting information, no adjustment to Ruukki's normal value should be made.

*(b) Ruukki Specific Adjustments*

Ruukki has clearly stated that in comparison to its standing in its domestic market, **'Ruukki is relatively small both in terms of volumes and time invested which is why Ruukki does not benefit from corresponding premium in the Australian market'**. Furthermore the higher overall steel volumes traded allow for additional services that create value added also for the customers of the good. These include for example free technical Customer Support that is not available in Australia. Ruukki estimates that the value of the brand and services [\*\*\*]<sup>10</sup>.

Bisalloy interprets the above statements by Ruukki to be contradictory to its claim that in its earlier submission. In its 17 February 2014 submission Ruukki stated that it **'Aims into long lasting market presence in the Australian market with high quality niche products focusing on the quality of the products and services; not the low price'**. However, in the above statement Ruukki indicates it will take whatever price is available in the market (as confirmed in submission of 17 February 2014, P.4 that "Ruukki has a long term pricing policy that is fundamentally connected to market prices"). In this instance, the price at which Ruukki has exported to Australia is a dumped price.

*(c) Ruukki's constructed normal value*

Ruukki has sought to present its assessment of normal values in Table 1 based upon a number of unrelated "estimates" and "market intelligence" to suggest that its exports of Q&T steel plate to Australia are not dumped.

Bisalloy anticipates that the Commission will not accept estimates or assertions in assessing normal values for Ruukki. As a result the constructed Table 1 methodology should be disregarded by the Commission and only domestic selling prices that are detailed in Ruukki's complete history of domestic sales of like goods over the investigation period will be considered for normal value purposes.

In the event that the Commission can arrive at a PAD at the earliest opportunity (including prior to exporter verification visits), Bisalloy urges the Commission not to make adjustments to Ruukki's normal values as suggested in Table 1.

Bisalloy requests that the Commission base provisional measures on the full margin of dumping assessed for Ruukki and all other exporters (cooperative and non-cooperative).

*(d) Conclusions in Ruukki submission*

<sup>10</sup> Ruukki submission 6 March 2014, P2 & 3.

Ruukki's final conclusions in its 6 March 2014 submission claim that **'The export price and the domestic Normal Value cannot be compared'** and that their **simulation** (of Normal Value) **evidences that several**

**factors contribute to the difference in the price level between Ruukki's domestic price of the Goods and the Export price to Australia and that the so constructed normal value is in fact lower than the export price<sup>11</sup>.**

Bisalloy has demonstrated that Ruukki's claims and assertions and subsequent conclusions concerning normal value determination are inconsistent with the legislative provisions of the Customs Act. Ruukki's claims that its export prices are not dumped cannot be relied upon. Additionally, the evidence available to the Commission is indicative that exports of Q&T steel plate by Ruukki and other exporters in Sweden and Japan has caused material injury to the Australian industry.

#### **8. Delays in completing exporter questionnaires**

Bisalloy is concerned by the lengthy extensions of time granted by the Commission for cooperative exporters to complete questionnaire responses. The extensions invariably delay the decision on implementation of a Preliminary Affirmative Determination ("PAD"), and access to relief from material damage for the Australian Industry. Bisalloy requests the Commission to publish a PAD at the earliest possible time based upon the full margins of dumping contained in Bisalloy's application.

**Ruukki's stated aim 'is to comply with any reasonable requests and to cooperate with the Commission regarding the investigation to support the observation that the domestic sales as such are not suitable comparison point for establishing the normal value as provided ins. 269TAC(1) of the Customs Act 1901<sup>12</sup>.**

Bisalloy interprets this statement by Ruukki to mean that Ruukki is only willing to cooperate with the Commission on the basis that the Commission accepts Ruukki's definition of what is 'reasonable' as well as Ruukki's 'conception' of normal value. Bisalloy does not anticipate that the Commission will be influenced by Ruukki's apparent intentions and that Ruukki's normal value will be assessed in accordance with the legislative requirements of a cooperative exporter.

#### **9. Request**

Ruukki's representations support Bisalloy's claims in its application that Q&T steel plate exported to Australia has been dumped and caused material injury to the Australian industry. Bisalloy is seeking the Commission to publish a PAD and apply provisional measures at the earliest opportunity to mitigate further injury to the Australian industry manufacturing like goods to the goods exported by Ruukki.

If you have any questions concerning this submission please do not hesitate to contact either myself on (02) 4272 0407 Mob: 0406317671 or Bisalloy's Consultant John O'Connor on (07) 3342 1931 Mob: 0411 252 451.

Yours faithfully,



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<sup>11</sup> Ruukki submission, 6 March 2014, P. 4.

<sup>12</sup> Ruukki submission, 6 March 2014, P.1.