



CUSTOMS ACT 1901 - PART XVB
ANTI-DUMPING COMMISSION

**PRELIMINARY AFFIRMATIVE
DETERMINATION
REPORT NO. 234**

**QUENCHED AND TEMPERED STEEL PLATE
EXPORTED TO AUSTRALIA FROM
FINLAND, JAPAN AND SWEDEN**

May 2014

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ABBREVIATIONS

The Act	<i>Customs Act 1901</i>
ABS	Australian Bureau of Statistics
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
Bisalloy	Bisalloy Steels Pty Ltd
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner, Anti-Dumping Commission
CTMS	Cost to make and sell
FOB	Free on board
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
JFE	JFE Steel Corporation
the Minister	the Minister for Industry
NIP	Non-injurious Price
NSSMC	Nippon Steel and Sumitomo Metal Corporation
PAD	Preliminary Affirmative Determination
Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry
Q&T steel plate	Quenched and Tempered steel plate
Ruukki	Ruukki Metals Oy
SEF	Statement of Essential Facts
SSAB	SSAB Emea AB
USP	Unsuppressed Selling Price

1 SUMMARY & PRELIMINARY DECISIONS

1.1 Background

This Preliminary Affirmative Determination (PAD) Report Number 234 sets out the reasons for the Commissioner of the Anti-Dumping Commission (the Commissioner) making a PAD under s. 269TD of the *Customs Act 1901* (the Act).¹

The preliminary findings, conclusions and provisional calculations discussed in this report are made for the purpose of the PAD and are based on information available at the time of making the PAD. It is possible for these findings, conclusions and calculations to change between publication of the PAD and publication of the statement of essential facts (SEF) as more information becomes available.

1.2 PAD and provisional dumping measures

In making this PAD, the Commissioner is satisfied there are sufficient grounds for the publication of a dumping duty notice in relation to Quenched and Tempered steel plate (Q&T steel plate) exported to Australia from Finland, Japan and Sweden.

The Commissioner considers that the Australian Customs and Border Protection Service (ACBPS) should take securities under s. 42 of the Act in respect of interim dumping duty that may become payable in relation to Q&T steel plate exported to Australia from Finland, Japan and Sweden. The Commissioner is satisfied that securities are necessary to prevent material injury to the Australian industry occurring while the investigation continues.

Securities will apply to imports of Q&T steel plate from Finland, Japan and Sweden entered for home consumption on or after **19 May 2014**.

The following documents give effect to the Commissioner's decision:

- the determination for the PAD (**Confidential Attachment 1**); and
- the public notice (**Non-Confidential Attachment 1**).

1.3 Application of law to facts

Division 2 of Part XVB of the Act sets out procedures for anti-dumping matters by the Commissioner.

1.4 The role of the Anti-Dumping Commission

The role of the Anti-Dumping Commission (the Commission) is to provide a report to the Commissioner with its recommendations. Those recommendations are based on information gathered during the investigation.

¹ References to any section or subsection shall be references to sections or subsections of the *Customs Act 1901*

1.5 The role of the Commissioner

The Commissioner may make a PAD at any time after 60 days from the date of initiation of an investigation if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice, or that it appears that there will be sufficient grounds subsequent to the importation of the goods into Australia.

In deciding whether to make a PAD, the Commissioner must have regard to the application, any submissions received within 40 days after the date of initiation of the investigation, and any other matters the Commissioner considers relevant.

If the ACBPS decides to require and take securities at the time of the determination, or at a later time in the investigation, being satisfied that doing so is necessary to prevent injury to the Australian industry, the Commissioner must also give public notice of that decision.

1.6 Preliminary assessments

1.6.1 Australian industry and like goods (Chapter 5 of this report)

The Commission is satisfied there is an Australian industry producing 'like goods' (Q&T steel plate) to the goods the subject of the investigation. The Commission is satisfied that the like goods are manufactured in Australia by Bisalloy Steels Pty Ltd (Bisalloy).

1.6.2 Dumping (Chapter 7 of this report)

The Commission's assessment shows:

- Q&T steel plate exported to Australia from Finland, Japan and Sweden during the investigation period was dumped; and
- the volume of dumped goods from these countries and the dumping margin for each exporter was not negligible.

The Commission's assessment of dumping margins for Q&T steel plate exported from Finland, Japan and Sweden is outlined below:

Country	Exporter / Manufacturer	Preliminary dumping margin
Finland	All Exporters	28.9%
Japan	JFE Steel Corporation	18.0%
	<i>Uncooperative exporters</i>	26.1%
Sweden	All Exporters	39.8%

Table 1- Preliminary dumping margins – Finland, Japan and Sweden

1.6.3 Injury (Chapter 8 of this report)

The Commission is satisfied that during the investigation period the Australian industry producing like goods experienced injury in the form of:

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- lost sales volumes;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced capacity utilisation;
- reduced revenues; and
- increased stock levels of like goods.

1.6.4 Causation (Chapter 9 of this report)

The Commission is satisfied for the purpose of the PAD there are sufficient grounds to find that that dumping of Q&T steel plate by exporters from Finland, Japan and Sweden caused material injury to the Australian industry (Bisalloy) producing like goods.

2 BACKGROUND

2.1 Initiation of dumping investigations

On 20 November 2013, Bisalloy lodged an application for the publication of a dumping duty notice in respect of Q&T steel plate exported to Australia from Finland, Japan and Sweden.

On 10 December 2013, Bisalloy provided further information and data in support of its application. As a result, the Commission restarted the 20 day period for considering the application.

Following consideration of the application, the Commissioner decided not to reject the application and the Commission initiated an investigation on 8 January 2014. Public notification of initiation of the investigation (public notice) was made in *The Australian* newspaper on that day.

Anti-Dumping Notice (ADN) No. 2014/01 provides further details of the investigation and is available on the Commission's website at www.adcommission.gov.au

In respect of the investigation:

- the investigation period for the purpose of assessing dumping is 1 January 2013 to 31 December 2013; and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 January 2010.

2.2 SEF and due dates

The public notice advised that the SEF for the investigation would be placed on the public record by 28 April 2014. However, the Commissioner requested that the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary)² extend the prescribed 110 days for publication of the SEF, as the timeframe proved to be insufficient.³

Pursuant to s. 269ZHI of the Act, the Parliamentary Secretary approved an extension of time to publish the SEF, which is now due on or before 28 July 2014. The final report with the Commissioner's recommendations is now due to the Parliamentary Secretary on or before 10 September 2014.

2.3 Submissions

At the date of this PAD, the Commission has received 18 submissions from interested parties. These submissions have been considered for the purpose of this PAD, and will continue to be considered as the investigation progresses.

² The Minister for Industry has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker for this investigation

³ The extension of time granted to issue the SEF was detailed in ADN 2014/36

3 ABILITY TO MAKE A PAD AND TAKE SECURITIES

3.1 Ability to make a PAD

At any time not earlier than 60 days after the date of initiation of an investigation into to whether there are sufficient grounds for the publication of a dumping duty notice, in respect of goods the subject of an application, the Commissioner may make a PAD under s. 269TD of the Act, if satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In deciding whether to make a PAD, the Commissioner must have regard to the application concerned, any submissions concerning publication of the notice that are received by the Commission within 40 days after the date of initiation of the investigation, and any other matters that the Commissioner considers relevant. The Commissioner is not obliged to have regard to any submission received after day 40 if to do so would prevent the timely consideration of whether or not to make a PAD.

3.2 Ability to take securities

ACBPS may, at the time of the Commissioner making a PAD or at any later time during the investigation, require and take securities under s. 42 of the Act in respect of interim duty that may become payable, if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.⁴

3.3 Information considered

In making this PAD, the Commission has had regard to:

- the application for the dumping duty notice;
- submissions and questionnaire responses (verified and unverified); and
- other matters that the Commissioner considered relevant.

⁴ Paragraph 269TD(4)(b)

4 THE GOODS UNDER INVESTIGATION

4.1 Goods description

In its application, Bisalloy described the goods under consideration (GUC) as:

“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 profiled 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 stated that Q&T steel plate comprises grades with typical mechanical properties as follows:⁵

“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).”

For further details regarding the goods, refer to ADN 2014/01 which is available on the public record.

4.2 Tariff classification

Goods identified as Q&T steel plate are classified to tariff subheading 7225.40.00 in Schedule 3 to the *Customs Tariff Act 1995*.

Tariff subheading 7225.40.00 refers to flat-rolled products of other alloy steel, of a width of 600mm or more – other, not further worked than hot-rolled, not in coils. The relevant statistical codes are:

⁵ These properties are indicative and not determinative of the goods

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- statistical code 21 - high alloy: quenched and tempered; and
- statistical code 23 - other: quenched and tempered.

Bisalloy also claimed in its application that some imported Q&T steel plate was incorrectly classified to statistical codes 22 and 24 within tariff subheading 7225.40.00. The Commission will seek further clarification on this matter during the course of the investigation.

The Commission has also identified that, in relation to a small volume of imports, Q&T steel plate has been declared under tariff subheading 7225.99.00 during the investigation period. The Commission will also seek further clarification on this matter during the course of the investigation.

For tariff subheadings 7225.40.00 and 7225.99.00, the general rate of duty is five per cent for goods imported from Finland, Japan and Sweden.

5 AUSTRALIAN INDUSTRY & LIKE GOODS ASSESSMENT

5.1 Preliminary assessment

Based on information available at the time of making the PAD, the Commissioner is satisfied there is an Australian industry producing like goods to the goods the subject of the application and that the like goods are produced in Australia.

5.2 Like goods

Subsections 269T(2) and 269T(3) of the Act specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

Subsection 269T(1) of the Act defines like goods as:

goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Having undertaken verification visits to Bisalloy's Unanderra processing plant, as well as to importers of Q&T steel plate, the Commission is satisfied that Bisalloy is the sole producer of Q&T steel plate in Australia and that Bisalloy wholly manufactures the goods. Accordingly, the Australian industry consists of Bisalloy.

5.2.1 Preliminary assessment - like goods

The Commission has assessed, based on the information currently before it, that Bisalloy has demonstrated the following in relation to Q&T steel plate:

- the primary physical characteristics of the goods and locally produced goods are similar;
- the goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- the goods and locally produced goods are functionally alike as they have a similar range of end-uses; and
- the goods and locally produced goods are manufactured in a similar manner.

In light of the above, we are satisfied that the Australian industry produces like goods to the goods the subject of the application, as defined in s. 269(T) of the Act.

The Commission notes that submissions have been received from interested parties emphasising quality differences between locally produced goods and imported goods. The Commission will continue to assess the issue of like goods throughout the investigation.

6 AUSTRALIAN MARKET

6.1 Background

The Q&T steel plate market in Australia is driven by the resources and mining sector and, to a lesser degree, the general construction, infrastructure, and transport sectors.

6.2 Market distribution

Bisalloy explained that the Australian Q&T steel plate market is predominantly supplied by its domestic production and imports from a number of countries.

6.3 Market size

In its application, Bisalloy submitted its estimates of the Australian market size and market share of Q&T steel plate from 1 July 2010 to 31 December 2013. The Commission considered and verified the data submitted by Bisalloy and compared this with data from the ACBPS import database for the past four calendar years 2010 to 2013.

The Commission's preliminary assessment of the estimated Australian market size is depicted in Figure 1 below. The Commission filtered the ACBPS data for the relevant tariff classifications, statistical codes, goods descriptions and price ranges in order to identify the goods. The Commission notes that the ACBPS import database does not allow the filtering of imports to the relevant statistical codes based on thickness, width or length. Therefore, the market size estimated below contains goods which do not match the precise parameters of the goods description at section 4.1.

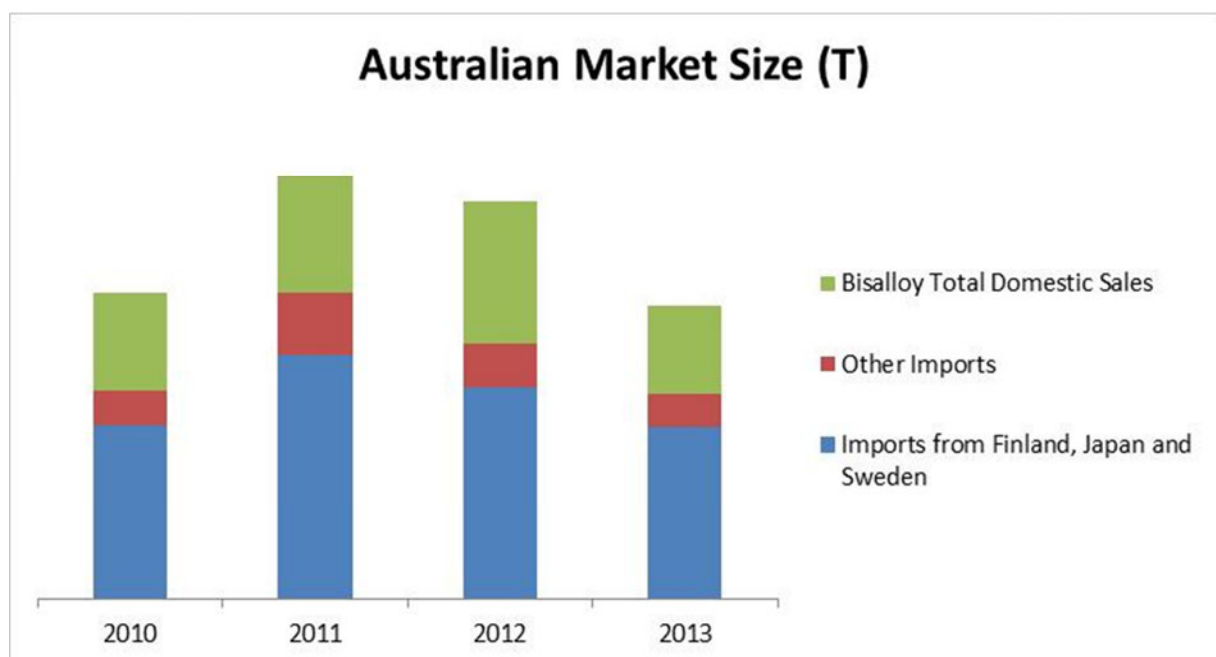


Figure 1 – Commission's estimate of Australian Market Size for Q&T steel plate

6.4 Import volumes and market share

Figure 1 above shows that the volume of imported Q&T steel plate from Finland, Japan and Sweden exceeds that of sales by the Australian industry. The volume of imported Q&T steel plate from Finland, Japan and Sweden increased in 2011, but decreased in 2012 and 2013 (the investigation period).

Figure 2 below shows the market share held by the Australian industry and imports as a percentage of the total Australian market for Q&T steel plate.

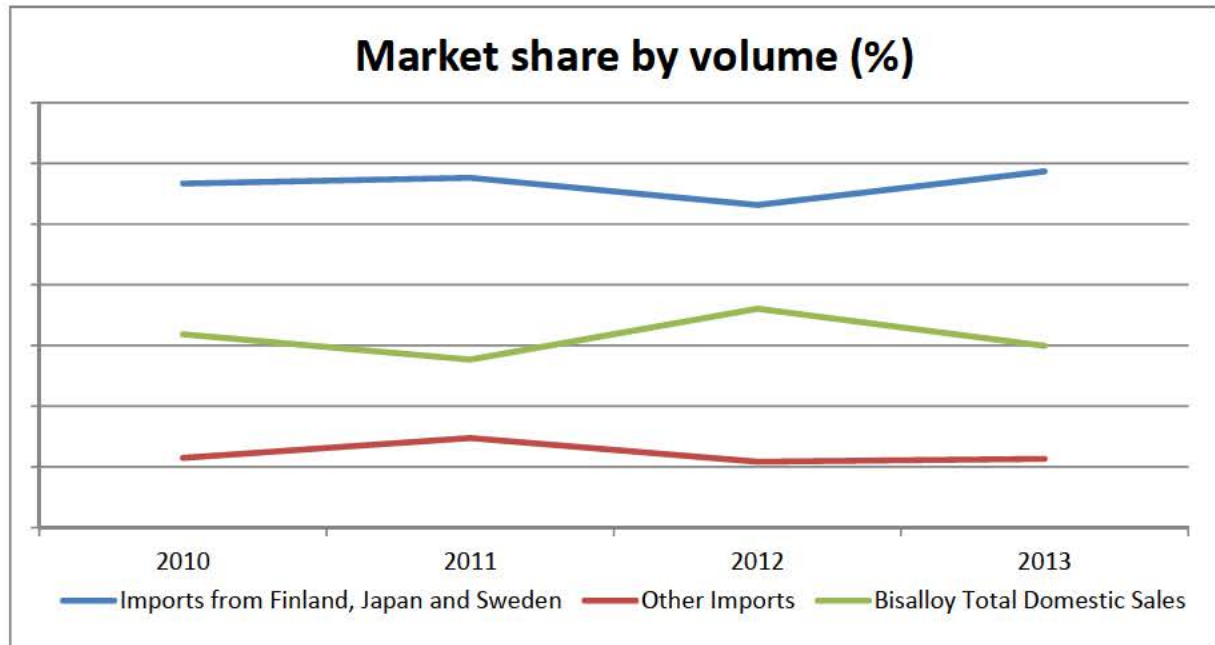


Figure 2: Market share by volume for total Australian Q&T steel plate market

The Commission, for the purposes of the PAD, has not relied on the above data taken from the ACBPS import database to determine whether there was any change in the market share of suppliers of the goods under consideration. As noted above in section 4.1, the ACBPS import database cannot be accurately filtered to match the thickness, width and length requirements of the goods description. For this reason, changes in product mix of imported Q&T steel plate during the injury analysis period may be responsible for changes in market share. The Commission will continue to examine this issue throughout the remainder of the investigation.

7 PRELIMINARY DUMPING ASSESSMENT

7.1 Preliminary assessment

Based on verified and unverified information and data available at the time of making the PAD, the Commissioner is satisfied that exports of Q&T steel plate to Australia from Finland, Japan and Sweden were dumped during the investigation period.

At the time of publication of the PAD, substantially completed questionnaire responses were received by the Commission from the following exporters:

- SSAB Emea AB (SSAB);
- Ruukki Metals Oy (Ruukki); and
- JFE Steel Corporation (JFE).

The Commission's assessment is:

- Q&T steel plate exported to Australia from Finland, Japan and Sweden during the investigation period was dumped; and
- the volume of dumped goods from these countries, and the dumping margins for all exporters were not negligible.

Preliminary dumping margins are tabulated below:

Country	Exporter / Manufacturer	Preliminary dumping margin
Finland	All Exporters	28.9%
Japan	JFE Steel Corporation	18.0%
	<i>Uncooperative exporters</i>	26.1%
Sweden	All Exporters	39.8%

Table 2 - Preliminary dumping margins – Finland, Japan and Sweden

7.2 Traders

Four completed exporter questionnaires were received from 'traders'.

For the purpose of the PAD, the Commission considers that manufacturers are the exporters for all sales to Australia. Therefore, where a completed exporter questionnaire has been received by the Commission from a trader, a separate dumping margin has not been calculated for the purposes of the PAD. The dumping margin applicable for these shipments is the dumping margin applicable to the relevant manufacturer of the goods.

The Commission will further examine this issue as the investigation progresses.

7.3 Exporter questionnaire responses and insufficient information

The Commission contacted all exporters of the goods within the relevant tariff subheading for Q&T steel plate, as identified in the ACBPS import database.

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The Commission has established there was only one exporter each for both of Finland and Sweden during the investigation period.

In relation to Japan, some exporters failed to respond to the Commission's requests for cooperation. Under s. 269T(1) of the Act these exporters are considered uncooperative exporters.

One major Japanese exporter, Nippon Steel and Sumitomo Metal Corporation (NSSMC), did not give the Commissioner all information the Commissioner considered to be relevant to the investigation, within a period the Commissioner considered to be reasonable. Pursuant to s. 269T(1) of the Act, the Commissioner is satisfied that NSSMC is an uncooperative exporter.

Individual dumping margins have not been calculated for NSSMC or any other uncooperative exporter from Japan.

7.4 Finland

Preliminary export prices for Finland were established pursuant to s. 269TAB(1)(a) of the Act using invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for exported models were determined under s. 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s. 269TAC(8).

Using relevant information contained in Ruukki's questionnaire response, the Commission calculated a product dumping margin by comparing the quarterly weighted average export price with the corresponding quarterly weighted average normal value over the investigation period.

Ruukki stated in a submission dated 6 March 2014, that it considered its domestic sales were not comparable to its exports to Australia without adjustments to account for differences in the respective markets, including adjustments for level of trade.⁶

For the purpose of the PAD, the Commission has not made an adjustment for level of trade as it is not yet satisfied that such an adjustment is warranted. The need to adjust for level of trade and other differences will be further examined in the course of the investigation.

The preliminary dumping margin for all exporters from Finland is 28.9 per cent.

⁶ Ruukki claims to sell only to end-users in its domestic market and distributors in the Australian market

7.5 Japan

7.5.1 JFE Steel Corporation

Preliminary export prices for exports by JFE were established pursuant to s. 269TAB(1)(a) of the Act using the invoiced export price, by product model, less any expenses representing a charge for any matter arising after exportation.

Preliminary normal values for exported models with sufficient comparable domestic sales volumes were determined under s. 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s. 269TAC(8).

For exported models with a low volume of domestic sales, normal values were determined under s. 269TAC(2)(c). For those models, the normal value was constructed based on the cost to manufacture the exported goods, uplifted by domestic selling, general and administrative costs and a weighted average profit calculated for domestic sales of like goods sold in the ordinary course of trade during the investigation period.⁷

Using relevant information contained in JFE's questionnaire response, the Commission calculated a product dumping margin by comparing the quarterly weighted average export price with the corresponding quarterly weighted average normal value over the investigation period.

The preliminary dumping margin for JFE is 18 per cent.

7.5.2 Uncooperative exporters from Japan

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. The Act specifies that for uncooperative exporters, export prices are to be calculated under s. 269TAB(3) and normal values are to be calculated under s. 269TAC(6).

Preliminary dumping margins for uncooperative exporters from Japan were established by comparing the quarterly weighted average export price for Japanese exporters with the quarterly weighted average normal value of Japanese exporters over the investigation period, without favourable adjustments.

The preliminary dumping margin for uncooperative exporters from Japan is 26.1 per cent.

7.6 Sweden

Given the nature of the relationship between entities within the SSAB group, preliminary export prices for Sweden were established pursuant to s. 269TAB(1)(c) of the Act. The export price was calculated using the price at which the goods were first

⁷ Reference is made to Regulation 181A of *Customs Regulations 1926*

sold to an arms' length party outside of the SSAB group, less deductions the Commission considers reasonable.

Preliminary normal values for exported models were determined under s. 269TAC(1) based on domestic sales of like goods sold in the ordinary course of trade. Adjustments to normal values to allow for comparison between export and domestic sales were calculated pursuant to s. 269TAC(8).

Using relevant information contained in SSAB's questionnaire response and verified information obtained during an importer visit to SSAB Swedish Steel Pty Ltd, the Commission calculated a product dumping margin by comparing the weighted average export price with the corresponding weighted average normal value over the investigation period.

The preliminary dumping margin for all exporters from Sweden is 39.8 per cent.

7.7 Preliminary dumping margin summary

The Commission's calculation of export prices, normal values and dumping margins in respect of Q&T steel plate are at **Confidential Attachment 2**.

These calculations are based on the information available at the time of making the PAD. As further verified information becomes available, these calculations may change as verification visit reports for exporters are finalised and other relevant submissions are further considered.

7.8 Volumes

Subsection 269TDA(4) of the Act provides that, the Commissioner must terminate an investigation if negligible volumes of dumped goods are found. The Commission examined the volume of goods for each country over the investigation period to determine if the volume of those goods was negligible.

As outlined in section 6.3, the Commission estimated the size of the Australian market. The Commission further refined this information (for the investigation period only) by contacting importers to request commercial documents to substantiate whether they were importers of Q&T steel plate. The Commission also considered import volumes during the investigation period provided in questionnaire responses.

Based on this information, the Commission is satisfied that, when expressed as a percentage of the total imported volume of the goods, the volume of allegedly dumped goods from each country was greater than three per cent and therefore not negligible.

8 PRELIMINARY INJURY ASSESSMENT

8.1 Preliminary injury assessment approach

The injury analysis detailed in this section is based on financial information submitted by Bisalloy and verified by the Commission. A report of the Commission's verification visit with the Australian industry is available on the public record.

The Commission considers Bisalloy's verified financial data is reliable for making an assessment of its material injury claims in relation to:

- lost sales volumes;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced capacity utilisation;
- reduced revenues; and
- increased stock levels of like goods.

8.2 Legislative framework

Under s. 269TG of the Act, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods.

8.3 Commencement of injury, and analysis period

Bisalloy submitted in its application that material injury caused by the importation of dumped Q&T steel plate has been occurring for a number of years, with an increased impact on profits and profitability being experienced during the 12 month period ending 30 September 2013.

As specified in *Consideration Report 234*, the Commission has set the investigation period as 1 January 2013 to 31 December 2013, and the period for assessing the condition of the Australian industry from 1 January 2010.

Charting and analysis has been completed on a calendar year basis for the four years 2010 to 2013.

8.4 Cumulation of injury

Subsection 269TAE(2C) of the Act provides for the consideration of the cumulative effect of exports from different countries, if the Minister is satisfied that it is appropriate to do so, after having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced.

The Commission is satisfied, for the purposes of the PAD, that the conditions of competition between imported and domestically produced Q&T steel plate are similar and that both importers and Bisalloy are selling the product predominantly into the same market segment.

The Commission is also satisfied that the goods are alike, have similar specifications and end-uses, are often sold to the same customers, and compete in the same markets.

For the purposes of the PAD, the Commission considers the conditions of competition are such that it is appropriate to consider the cumulative effect of the dumped imports from Finland, Japan and Sweden.

In relation to the above issue, the Commission notes that a submission has been received from SSAB Swedish Steel Pty Ltd on 3 April 2014. In this submission, SSAB Swedish Steel Pty Ltd request termination of the investigation under s. 269TDA(13) of the Act on the basis that injury to the Australian industry from imports of SSAB Q&T steel plate was negligible. At the time of making this PAD, the Commissioner is not satisfied that the matters in s. 269TDA(13) are satisfied. Further consideration of the issue will be given at a later stage of the investigation.

8.5 Volume trends

Figure 3 below illustrates Bisalloy's domestic sales volumes (in tonnes) on a calendar year basis. Figure 3 shows that Bisalloy's domestic sales volumes fluctuated, peaking in 2012, with a significant decline in 2013 (covering the period of investigation). Overall, there was a marginal decline in sales volumes between 2010 and 2013.

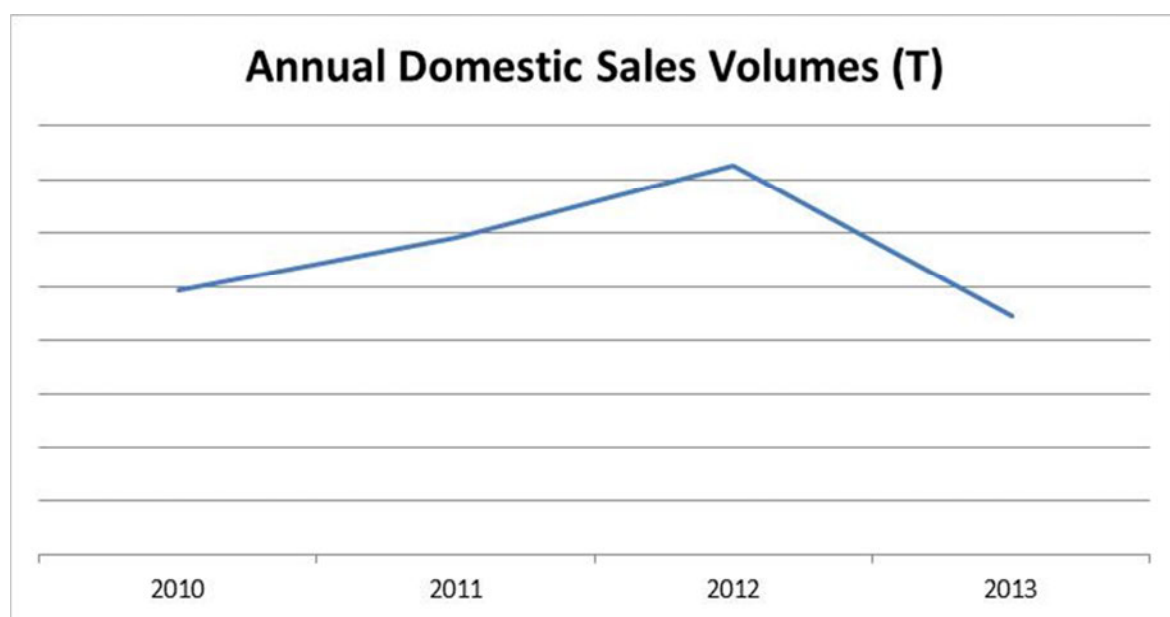


Figure 3: Bisalloy Annual Domestic Sales Volumes (calendar years 2010-2013)

8.6 Price trends

Price depression occurs when a company, for some reason, lowers its prices.

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Figure 4 below illustrates the movements and relationship between Bisalloy's average domestic unit cost to make and sell (CTMS) and unit revenue for Q&T steel plate on a calendar year basis.

Figure 4 shows that from 2010 to 2013:

- unit revenue has generally trended downwards and was lower in 2013 compared to unit revenue in 2010;
- unit CTMS was lower than unit revenue in 2010 but unit CTMS finished higher than unit revenue in 2013; and
- in 2013 unit revenue decreased, while CTMS increased, by which time unit CTMS exceeded unit revenue.

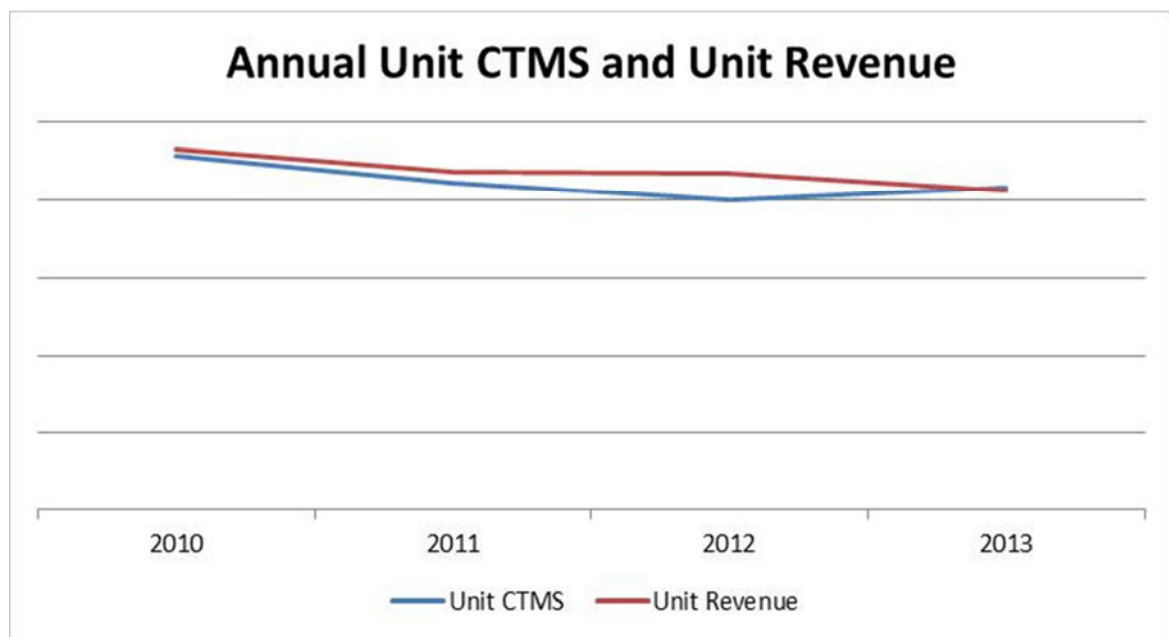


Figure 4: Annual unit revenue and CTMS for Bisalloy's domestic sales of Q&T steel plate

8.7 Profit trends

Movements in Bisalloy's annual profits and profitability are illustrated in Figure 5 below. Figure 5 shows that Bisalloy's total domestic profit and profitability (unit profit measured as a percentage of unit revenue) in respect of Q&T steel plate increased from 2010 to 2012, at which point it peaked. In 2013, total domestic profit and unit profitability both declined. Overall, profit and profitability were significantly lower in 2013 compared to 2010.

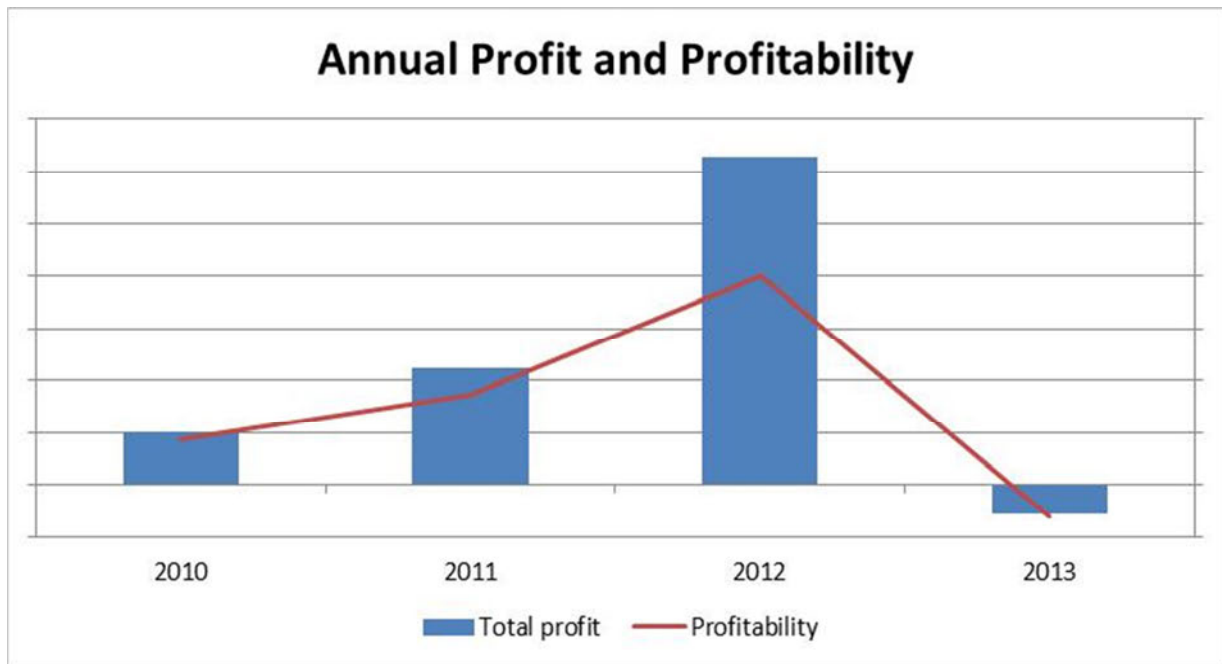


Figure 5: Bisalloy Q&T steel plate total profit and unit profitability on an annual basis

8.8 Other injury trends

In support of its claim of injury, Bisalloy provided application Appendix A7 showing movements in assets, capital investment, revenue, return on investment, capacity, capacity utilisation, employment, productivity, closing stocks, cash flow measures and wages for the four calendar years 2010 to 2013.

8.8.1 Reduced return on investment

Bisalloy stated that return on investment was measured based on return on sales. For the calendar years 2010 through to 2013, Bisalloy's return on investment declined by approximately eight per cent in total.

8.8.2 Reduced attractiveness for re-investment

Bisalloy stated that attractiveness for re-investment was measured by its investor's willingness to re-invest, which it measured by the movements in Bisalloy Steel Group's share price. For the calendar years 2010 through to 2013, Bisalloy Steel Group's share price showed an overall decrease.

8.8.3 Reduced revenues

Bisalloy's revenues decreased by approximately 26 per cent in total for the calendar years 2010 through to 2013.

8.8.4 Reduced capacity utilisation

Bisalloy's capacity utilisation has decreased by approximately 23 per cent in total for the calendar years 2010 through to 2013.

8.8.5 Increased stock levels of like goods

For the calendar years 2010 through to 2013, closing stock levels increased by 114 per cent in total.

8.8.6 Reduced wages for Bisalloy employees

For the calendar years 2010 through to 2013, average wages for Bisalloy employees decreased by approximately 8.3 per cent in total. Bisalloy explained that due to recent market contraction, it reduced its production shifts, resulting in less overtime and shift allowance for its employees. Bisalloy confirmed that it measured injury in this respect by reference to lower overall wage expenses, and not a reduction of staff or decrease in base wages.

8.9 Preliminary determination of injury indicators

Based on the analysis detailed above, there appear to be sufficient grounds to support the claim that Bisalloy experienced material injury in the form of:

- lost sales volumes;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced capacity utilisation;
- reduced revenues; and
- increased stock levels of like goods.

The Commission has insufficient information to conclude that Bisalloy suffered material injury in respect of reduced wages to employees.

Notwithstanding the above conclusions, the Commission will further analyse additional information obtained, or provided to it, during the investigation.

9 PRELIMINARY CAUSATION ASSESSMENT

9.1 Causation factors

Based on verified and unverified information and data available at the time of making the PAD, the Commission has made a preliminary assessment that Q&T steel plate exported to Australia from Finland, Japan and Sweden at dumped prices caused material injury to the Australian industry producing like goods.

Section 269TAE outlines the factors that the Minister may take into account in determining whether material injury to an Australian industry has been or is being caused or threatened. The following section of this report provides a summary of the Commission's key considerations in its causation assessment. The Commission is continuing to investigate, analyse and assess all causation factors.

9.2 Volume injury

Bisalloy's claims in relation to effects on volume caused by the dumped imports of Q&T steel plate from Finland, Japan and Sweden are detailed in *Consideration Report 234* and the *Bisalloy Verification Visit Report*. In brief, Bisalloy claim that sales volumes have decreased due to the importation of dumped Q&T steel plate.

The Commission's analysis shows that reduced demand resulting from a downturn in the mining sector is likely to have contributed to Bisalloy's reduced sales volumes during the investigation period (refer to Section 9.5 below). There is currently insufficient evidence to establish that volume injury suffered by Bisalloy as a result of dumping is material and greater than that likely to have occurred in the normal ebb and flow of business in a contracting market.

9.3 Price injury

9.3.1 Size of the dumping margins

Paragraph 269TAE(1)(aa) requires the Minister to have regard to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The dumping margins outlined in 7.1.1, ranging between 18 per cent and 39.8 per cent, are above de minimis (two per cent) and enabled importers of Q&T steel plate to have a competitive advantage on price compared to the Australian industry.

9.3.2 Price undercutting

For the purposes of the PAD, the Commission has undertaken preliminary analysis of price undercutting claims by Bisalloy. The analysis is based on verified sales data from importers visited by the Commission and Bisalloy (**Confidential Attachment 4**). The Commission compared weighted average free into store prices (AUD per tonne) of the imported goods sold by importers, to Bisalloy's net selling price (AUD per tonne) delivered for each product, at a comparable level of trade.

The Commission's analysis found that the prices of the imported goods from Finland, Japan and Sweden undercut Bisalloy's domestic selling prices for the majority of the 12 months during the investigation period. The Commission is satisfied the price undercutting related to a significant proportion of the overall market for Q&T steel plate.

9.3.3 Price Depression

The Commission notes that reduced demand from a downturn in mining investment is likely to have contributed to the lowering of prices within the Australian market for Q&T steel plate. However, the Commission is satisfied for the purposes of the PAD that the Australian industry was forced to reduce prices in order to compete with imported goods from Finland, Japan and Sweden to maintain its market share.

9.3.4 Price Suppression

Price suppression in terms of Article 3.2 of the World Trade Organization Anti-Dumping Agreement, is where price increases for the Australian industry's products, which otherwise would have occurred, have been prevented to a significant degree.

It is the Commission's preliminary view that lower market demand caused by a downturn in mining investment lowered Bisalloy's capacity utilisation and contributed to a higher unit CTMS. However, without the presence of dumping, it is likely that Bisalloy would be in a position to maintain pricing at levels necessary to cover the increase in CTMS.

9.3.5 Summary of Price injury

The Commission is satisfied that the dumping margins ranging from 18 per cent to 39.8 per cent (as outlined in sections 7.1) improved the pricing position of imported Q&T steel plate. This improved pricing position is likely to have contributed to the price undercutting (outlined in 9.3.2 of the report). As a result, the Commission is satisfied that dumping caused price injury, in terms of price suppression and price depression, to the Australian industry.

9.4 Profit injury

The price undercutting and dumping margins outlined in sections 7.1, 9.3.1 and 9.3.2 also support Bisalloy's claims that the impact of dumping is more detrimental to the Australian industry's profit and profitability in a contracting market. In this respect, Bisalloy claim that increased price competition and efforts to maintain market share unfairly impacts the Australian industry, resulting in a more dramatic deterioration of profit.

The Commission notes the Ministerial Direction on Material Injury which states, in the context of considering material injury:

*it is important to consider ... the greater impact of injury during periods of economic downturn and reduced rates of growth as an element of injury.*⁸

⁸ Australian Customs Dumping Notice No. 2012/24 – New Ministerial Direction on Material Injury

The Ministerial Direction on Material Injury goes further to say that, although the Australian industry may have overcome the effects of the presence of dumping at one point in time, at another time, weakened by other events, it can be more susceptible to injury from the same amount and extent of dumping.

The Commission is satisfied at this time, that an increase in price, equal to the lowest dumping margin calculated, is sufficient to have taken Bisalloy out of a position of negative profit. It is the Commission's preliminary view that Bisalloy's injury in terms of price and profit effects, because of the impact of dumped Q&T plate steel is greater than that likely to have occurred in the normal ebb and flow of business in the contracting market.

9.5 Injury caused by factors other than dumping

Under s. 269TAE(2A) of the Act, the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods. Any such injury or hindrance must not be attributed to the dumping. The Commission has considered all factors outlined in s. 269TAE(2A) and provides the following summary at this stage of the investigation.

9.5.1 Volume and prices of like goods that are not dumped – s. 269TAE(2A)(a)

In its application, Bisalloy identified Finland, Japan and Sweden as major sources of supply of imported Q&T steel plate.

In a submission dated 3 April 2014, SSAB Swedish Steel Pty Ltd claimed that the lowest priced Q&T steel plate available in Australia is imported from China and Korea. It also stated that injury from exports from countries such as Austria, Belgium, France, Germany and the United Kingdom must be examined. SSAB Swedish Steel Pty Ltd state that injury caused by these other countries should not be attributed to imports from the countries subject to the investigation.

The Commission has examined the volume and free on board (FOB) export prices from the ACBPS import database for other countries listed by SSAB Swedish Steel Pty Ltd in its submission. The Commission has found no evidence that the volume and price of like goods from these countries have contributed to injury of the Australian industry for Q&T steel plate.

9.5.2 Contractions in demand or changes in patterns of consumption – s. 269TAE(2A)(c)

In its application, Bisalloy stated that in the 12 months ending September 2013, the Australian market for Q&T steel plate declined substantially due to a downturn in mining activity. Bisalloy also state that approximately 70 per cent of its Q&T steel plate is used in resource related activities.⁹

⁹ Reference is made to Bisalloy Steel Group Annual Report 2012/2013

Figure 6 below shows a correlation between Bisalloy's sales volumes and the actual mineral exploration expenditure statistics published by the Australian Bureau of Statistics (ABS).¹⁰

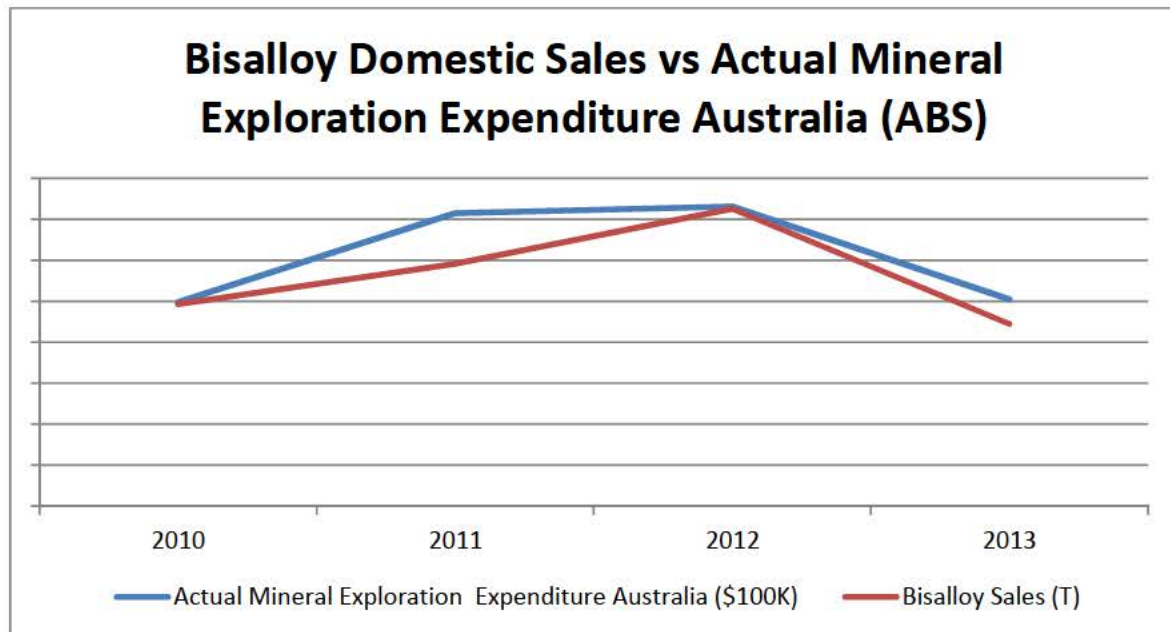


Figure 6: Bisalloy Sales vs. Actual Mineral Exploration Expenditure Australia (Source ABS)

Figure 6 provides supporting evidence that mining investment is a significant factor influencing Bisalloy's sales volumes. It follows that reduced sales volumes are likely to have some flow on effects to other injury factors.

However, the Commission notes that dumping need not be the sole cause of injury to the Australian industry and will continue to examine the extent and impact of this factor in more detail throughout the investigation.

9.5.3 Australian Dollar

Bisalloy claims that a strong Australian dollar during the injury analysis period made it more attractive for importers of Q&T steel plate to seek supply from overseas, consequently increasing competition for sales.

Bisalloy also claim that despite the depreciation of the Australian dollar compared to the currencies of Finland, Japan and Sweden, imported Q&T steel plate prices have continued to decline. The Commission has examined the declared FOB import prices in the ACBPS database, and is satisfied of Bisalloy's claims that imported Q&T steel plate prices did not increase despite a depreciation of the Australian dollar against the currencies of Finland, Japan and Sweden over the investigation period.

9.6 Summary

It is the Commission's view that, for the purposes of the PAD, there are sufficient grounds to establish that the price depression, price suppression, reduced profits,

¹⁰ Reference is made to <http://abs.gov.au/AUSSTATS/abs@.nsf/mf/8412.0>

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and reduced profitability, suffered by the Australian industry were caused by dumping and that the injury suffered by the Australian industry as a result of the dumping was material.

10 PRELIMINARY NON INJURIOUS PRICE ASSESSMENT

10.1 Preliminary assessment

The Commission has made the preliminary assessment that the non-injurious price (NIP) can be determined by setting the unsuppressed selling price (USP) equal to Bisalloy's CTMS in 2013 uplifted by its profit from 2012.

Where applicable, the recommended level of securities will be the lesser of the dumping margins found or the duty required to remove injury to the Australian industry.

10.2 Non-injurious price

Duties may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping, but the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if it is sufficient to remove the injury.¹¹

The lesser duty provision is given effect through the calculation of a NIP. That is the price that would be sufficient to remove the injury caused to the Australian industry by the dumping.

Dumping duties are based on FOB prices in the country of export. Therefore, a NIP is calculated in FOB terms for the country of export.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

The Commission's preferred approach to establishing USPs observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices - industry CTMS plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

10.3 Australian Industry

In a submission dated 11 April 2014, Bisalloy stated its views in determining a USP.

¹¹ S. 269TG(5)

Bisalloy submitted that the weighted average selling price for Q&T steel plate in a period unaffected by dumping, for example, the year immediately prior to the investigation period (calendar year 2012), is unsuitable due to its CTMS in 2012 being substantially lower than in 2013 (the investigation period). Bisalloy believes that the USP must reflect the higher costs of production incurred in the investigation period, when the alleged dumping occurred.

Bisalloy claims that the most suitable method for determining a USP is therefore its average unit CTMS in 2013, uplifted by its unit profit achieved in 2012.

10.4 The Commission's preliminary assessment

The Commission has considered and assessed Bisalloy's approach and considers it reasonable for the purposes of making the PAD. However, the Commission has made adjustments to the calculations presented by Bisalloy in the submission dated 11 April 2014, to reflect revised CTMS following the Commission's verification visit to Bisalloy.

Based on information obtained during importer visits, the Commission has calculated that the NIP will be the operative measure for exports of Q&T steel plate from Finland and Sweden. For Finland and Sweden, the recommended level of securities will be the duty required to remove injury. For Japan the recommended level of securities will be the preliminary dumping margins found.

Preliminary NIP calculations are at **Confidential Attachment 6**.

11 REASONS FOR MAKING A PAD

11.1 General

The Commission has been able to complete preliminary assessments of dumping based on verified and unverified information. The Commission's assessment shows that exports of Q&T steel plate from Finland, Japan and Sweden in the investigation period were at dumped prices. The volume and dumping margins of the dumped goods were not negligible.

The available evidence indicates that competition from dumped imports has caused the Australian industry to suffer from price depression, price suppression, reduced profits and reduced profitability.

Based on the available information as at **19 May 2014**, the Commissioner is satisfied that for the purpose of the PAD:

- Q&T steel plate has been exported from Finland, Japan and Sweden at less than their normal value;
- there is an Australian industry producing like goods that is experiencing injury; and
- the dumped goods are causing material injury to the Australian industry.

Consequently, the Commissioner is satisfied there appear to be sufficient grounds for the publication of a dumping duty notice in respect of Q&T steel plate exported to Australia from Finland, Japan and Sweden.

In making the PAD, the Commissioner had regard to the application and submissions received within 40 days of the public notice of initiation. Additionally, the Commissioner has also had regard to other matters considered relevant including information and data gathered by the Commission or submitted by interested parties (where appropriate), including:

- data from importers;
- data from exporters;
- data submitted by the Australian industry; and
- submissions made to the investigations from day 40 of the investigation to the date of making the PAD (where possible).

12 PROVISIONAL DUMPING MEASURES

12.1 Preliminary finding

Based on verified and unverified information and data available at the time of making the PAD, the Commissioner has decided to request ACBPS to take securities in respect of imports of Q&T steel plate from Finland, Japan and Sweden entered for home consumption on or after **19 May 2014**.

12.2 Preliminary assessment

The Commission understands that importers continue to place orders for goods from exporters in Finland, Japan and Sweden that, based on the findings in this report, the Commission considers were dumped during the investigation period. The Commissioner is satisfied that securities are warranted to prevent material injury being suffered by the Australian industry whilst the investigation continues. The Commissioner considers that the ACBPS should require and take securities under s. 42 of the Act in respect of interim dumping duty that may become payable in relation to Q&T steel plate exported from Finland, Japan and Sweden.

12.3 Preliminary provisional measures

The forms of duty available when implementing measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method (combination method);
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (i.e. a percentage of the export price).

12.3.1 Finland and Japan

For Finland and Japan securities will be calculated ad valorem (i.e. a proportion of export price). The ad valorem method is suitable for goods with many different product levels of varying unit prices. Securities will be at the level of the full dumping margins for Japan and the lesser duty calculated by reference to NIP for Finland, as tabulated in Table 3 below.

12.3.2 Sweden

For Sweden the Commission recommends that securities be calculated using a combination method. The combination method is suitable where there are complex company structures involving related parties.¹²

¹² Refer to Guidelines on the Application of Forms of Dumping Duty available at - <http://www.adcommission.gov.au/reference-material/documents/Guidelineformsfordumpingduty-November2013.pdf>

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The combination duty method proposed in relation to Sweden includes:

- a fixed component ad valorem rate equal to the lesser duty calculated by reference to NIP, as tabulated in Table 3 below; and
- a variable amount of duty if the actual export price is below the ascertained export price.

Country	Exporter / Manufacturer	Effective Rate of Securities
Finland	All Exporters	15.4%
Japan	JFE Steel Corporation	18.0%
	<i>Uncooperative exporters</i>	26.1%
Sweden	All Exporters	13.6%

Table 3 - Preliminary provisional measures summary

13 APPENDICES & ATTACHMENTS

Non-Confidential Attachment 1	Public notice – PAD
Confidential Attachment 1	Commissioner Determination for PAD No. 234
Confidential Attachment 2	Preliminary export prices, preliminary normal values and preliminary dumping margins
Confidential Attachment 3	Preliminary injury assessment
Confidential Attachment 4	Preliminary price undercutting analysis
Confidential Attachment 5	Commission's assessment of the market for Q&T steel plate
Confidential Attachment 6	Preliminary USP and NIPs
Confidential Attachment 7	Actual mineral exploration expenditure comparison



Customs Act 1901 – Part XVB

Quenched and Tempered Steel Plate
Exported from Finland, Japan and Sweden
Preliminary Affirmative Determination and
Imposition of Securities

Public notice under section 269TD of the Customs Act 1901

On 8 January 2014, I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, initiated an investigation into the alleged dumping of Quenched and Tempered steel plate (the goods) exported to Australia from Finland, Japan and Sweden, following an application lodged by Bisalloy Steels Pty Ltd.

A full description of the goods is available in Anti-Dumping Notice (ADN) No. 2014/01. This ADN is available on the public record at www.adcommission.gov.au.

In accordance with paragraph 269TD(4)(a) of the *Customs Act 1901* (the Act), I give public notice that, on 15 May 2014, a preliminary affirmative determination has been made that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Finland, Japan and Sweden.

In reaching this preliminary decision, I am satisfied that dumped goods appear to have caused material injury to the Australian industry producing like goods.

The preliminary analysis of dumping margins is tabulated below:

Country	Exporter / Manufacturer	Dumping Margins
Finland	All Exporters	28.9%
Japan	JFE Steel Corporation	18.0%
	<i>Uncooperative exporters</i>	26.1%
Sweden	All Exporters	39.8%

Preliminary affirmative determination report no 234 sets out the reasons for making this preliminary affirmative determination, and has been placed on the Anti-Dumping Commission's (the Commission) public record and may be examined at the Commission office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au.

At the time of making the preliminary affirmative determination, I further determined that securities should be required and taken under section 42 of the Act in respect of interim dumping duty that may become payable in respect of the goods exported from Finland, Japan and Sweden, being satisfied that it is necessary to require and take securities in order to prevent material injury occurring to the Australian industry while the investigation continues.

Securities will be taken in respect of any interim dumping duty that may become payable in respect of the goods entered for home consumption on or after 19 May 2014.

The security that has been determined is an amount calculated in accordance with the ad valorem duty method for Finland and Japan and the combination of fixed and variable duty method for Sweden.

These securities will be imposed at the rate specified in the below table:

Country	Exporter / Manufacturer	Effective rate of dumping securities	Duty Method
Finland	All Exporters	15.4%	Ad valorem
Japan	JFE Steel Corporation	18.0%	Ad valorem
	<i>Uncooperative exporters</i>	26.1%	Ad valorem
Sweden	All Exporters	13.6%	Fixed and variable

Note that the level of securities imposed is different from the dumping margins found in the preliminary analysis of dumping, due to application of the lesser duty rule. Under the lesser duty rule, consideration is given to the desirability of imposing duties at less than the full dumping margins, if the lesser amount of duty is adequate to remove injury to the Australian industry.

The actual security liability may be higher than the effective rate of dumping securities due to a number of factors. Affected parties should contact the Commission by phone on 1300 884 159 or +61 2 6275 6066 (outside Australia) or at clientsupport@adcommission.gov.au for further information regarding the actual security liability calculation in their particular circumstance.

I must report to the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary) with final recommendations in relation to this investigation on or before 10 September 2014. The Parliamentary Secretary will then decide whether to publish a dumping duty notice and, if relevant, the level of measures to be imposed.

If dumped goods give rise to retrospective notices being imposed on the goods under section 269TN of the Act, the dumping duty notice will also include the duties to be imposed retrospectively.

Enquiries about this notice may be directed to the case manager on telephone number +61 3 9244 8229, fax number +61 3 9244 8902 or Operations3@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

19 May 2014