

For Publication

The Director
Operations 3
Anti-Dumping Commission
1010 La Trobe Street
DOCKLANDS VIC 3008

23 May 2014

Attention: Mr Matthew Williams

Dear Sir

**Quenched and Tempered Steel Investigation exported from, inter alia, Japan
Response to PAD - Japanese Steel Mills**

We refer to the preliminary affirmative determination report issued on 19 May 2014 (**Report**).

Our clients are concerned about the calculation of the NIP and the imposition of measures in circumstances where:

1. The ADC accepted that the reduced demand for Quenched and Tempered Steel resulted from a downturn in the mining sector which led to reduced sales volume during the investigation period (Report at 9.2).
2. The lower market demand caused by the downturn in mining investment in Australia lowered Bisalloy's *capacity utilisation* and contributed to a higher unit CTMS (Report at 9.3.4).
3. Imports of Q&T steel plate into Australia from countries such as China, Korea, Austria, Belgium, France, Germany and the United Kingdom were found not to have contributed to injury to Australian industry (Report at 9.5.1).

The ADC determined the rate of dumping securities with reference to Bisalloy's submission of 11 April 2014. That submission urged the use of the unsuppressed selling price (**USP**) as a surrogate (after deducting certain expenditures) for the NIP.

The calculation undertaken by the ADC, insofar as it relies on a USP derived from a CTMS in 2013 (which was at its highest due to the slump in demand) as adjusted by SG&A and profit from 2012 (when profits were at their maximum) results in a skewed and inflated NIP.

Profits were at their maximum in 2012 because that was a period of peak demand which in turn lead to optimal capacity utilisation and a consequent lower CTMS. The mismatch of information and data from two distinct time periods is neither logical nor rational.

There are 2 alternatives which the ADC could have used to calculate the NIP. First, the USP could have been derived from the 2010 prices and data - this being a time unaffected by any alleged dumping and before the market rose to the peaks experienced in 2011 and 2012. Alternatively, the USP could have been derived from the selling price of un-dumped imports. This data is held by the ADC and is referred to in the PAD report i.e. the other imports data from the countries specified in point 3 above.

Yours sincerely



Zac Chami, Partner
+61 2 9353 4744
zchami@claytonutz.com

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