#### RECEIVED 4 JULY 2014



commercial + international

Canberra Office 6/2 Brindabella Circuit Brindabella Business Park Canberra International Airport Australian Capital Territory 2609 +61 2 6163 1000

> Brisbane Office Level 4, Kings Row Two 235 Coronation Drive Milton, Brisbane Queensland 4064 +617 3367 6900

> > Australia

Director Operations 3 Anti-Dumping Commission 101 La Trobe Street Dockland Victoria **30**08

By email

4 July 2014

Dear Director

# SSAB Swedish Steel Pty Ltd Further comments regarding the Applicant's material injury allegations

We refer to the submission that we lodged on behalf of SSAB Swedish Steel Pty Ltd ("SSAB") and its related companies on 2 April 2014 ("SSAB's initial submission").

In that submission, SSAB explained that there was no relevant competitive interaction between the goods it sold within Australia, and the products produced by Bisalloy Steels Pty Ltd ("the Applicant"). This conclusion was supported by these facts:

- that SSAB steel plate and the Applicant's steel plate are supplied to different customers occupying different markets;
- that there are substantial differences between SSAB steel plate and the Applicant's steel plate; and
- reflecting the above, that the price points of SSAB steel plate were (and are) much higher than those of the Applicant's steel plate.

SSAB submitted that this was a sufficient basis on which the Commission should terminate the investigation, insofar as it relates to quench and tempered steel ("Q&T steel") produced by SSAB EMEA AB ("SSAB EMEA)".

SSAB's position is that the Applicant has been forced to compete with lower priced Q&T steel in depressed market conditions. The fact that SSAB's Q&T steel has been sold at lower prices than SSAB would like to achieve is solely because of those depressed market conditions. However, as an always higher-priced and always higher specification product, SSAB's Q&T steel cannot be said to have caused any injury by way of dumping.

SSAB EMEA was the only exporter of Q&T steel to Australia from Sweden during the period of investigation ("POI"). Resultantly, the Anti-Dumping Commission ("the Commission") can and should terminate the investigation under Section 269TDA(13) of the *Customs Act* 1901, on the basis that Q&T steel exported from Sweden has not caused material injury to the Applicant.

SSAB now wishes to provide further information in support of SSAB's initial submission. Specifically, in this letter, SSAB will address the following points:

- SSAB's technical superiority in terms of its raw materials and process control;
- SSAB's technical superiority in terms of the hardness and toughness of its Q&T steel;
- SSAB's technical superiority in terms of the thickness and flatness tolerances of its Q&T steel; and
- prices of Q&T steel in the Australian market during 2013.

## A SSAB technical superiority – raw materials and process control

In relation to the Australian industry's injury allegations, SSAB made these comments in its initial submission about the inclusion of scrap steel in the Applicant's greenfeed, and about its implications:

By contrast, the Applicant uses low-quality greenfeed plate imported from China which, so far as SSAB is aware, is made from steel scrap.

In contrast, the Applicant's products are based on a "high alloyed" concept using scrap-based greenfeed made in China.

The impurity of the raw materials in the greenfeed used by the Applicant and the Applicant's "highalloy" production method results in an end-product that has inferior thickness and surface tolerance, that is harder to handle and cut, and that is more likely to crack.

The information about the use of scrap feed for the Applicant's plate is from the following webpage: <u>http://www.bisjigang.com/en/html/tec/technolgy/</u>. The statement that is made on that webpage is the following:

The production of green-feed is strict controlled from the hot-metal, that the chemical position should be analyses before steelmaking process, and using high quality scrap steel in order to minimize the impurity.

A copy of the webpage is attached, as Attachment 72 – Bisjang website screenshot.

The statements made by SSAB in its submission were based on its awareness of the position as expressly stated on Bisalloy Jigang's own website. If Bisalloy Jigang or the Applicant now believes that this gives readers the wrong impression, then the statement should be corrected.

We also draw your attention to the Applicant's 2013 annual report, where the plate is referred to as having come from *"greenfeed formulations"* and where it is also said that it is sourced from *"several"* steel mills in Australia and North Asia.<sup>1</sup> While the identity of the mills is redacted in the Applicant's application for the initiation of the investigation, it does identify BlueScope Steel Limited ("BlueScope") as its largest source of Q&T greenfeed.<sup>2</sup>

It is common knowledge that steel scrap constitutes approximately 17 to 20 percent of the material that goes into the basic oxygen steelmaking ("BOS" furnace at BlueScope's integrated steel mill in Port Kembla.<sup>3</sup> This accords with the Commission's own appreciation of BlueScope's production process, which

<sup>&</sup>lt;sup>1</sup> Bisalloy Steel Group Limited 2013 Annual Report, page iv. This establishes another important point, which is that the Applicant does not itself control the production of all of the greenfeed it uses.

<sup>&</sup>lt;sup>2</sup> Application for the Publication of Dumping and/or Countervailing Duty Notices – Quenched and Tempered Steel Plate from Japan, Sweden and Finland, page 14.

http://www.bluescopesteel.com/media/10558/Recycling%20in%20the%20Steel%20Industry.pdf

# moulislegal

it reviewed, analysed and verified during the 2013 anti-dumping investigation into hot rolled plate steel exported from China, Indonesia, Japan, Korea and Taiwan. This investigation related to a range of hot-rolled steel plate products, including Q&T plate. With regard to BlueScope's steel production processes, the verification report<sup>4</sup> in that investigation notes:

The basic oxygen steelmaking (BOS) process creates liquid steel from molten iron, scrap steel and alloying materials. The first step is charging the BOS vessel. The BOS vessel is one-fifth filled with steel scrap to which molten iron is added until the vessel is full (around 280 tonnes per batch). A lance that blows 99% pure oxygen onto the steel and iron is lowered into the vessel. The temperature rises to about 1700°C. This melts the scrap, lowers the carbon content of the molten iron and helps remove unwanted elements. Fluxes are then fed into the vessel to form slag which absorbs impurities of the steelmaking process. Near the end of the blowing cycle (which takes about 20 minutes) a temperature reading and samples are taken. The samples are tested and a computer analysis of the steel is done to ensure the desired chemistry is achieved.<sup>5</sup>

Q&T greenfeed fell within the definition of the goods under consideration in that investigation, and to our understanding the above extract covers the production process used to produce the steel for Q&T greenfeed. Thus, unremarkably, we can see that BlueScope uses scrap in its steel production processes. In addition to that observation, we understand that the scrap that BlueScope uses in its production processes is commercially purchased, from at least three "accredited" scrap suppliers within Australia. Although we cannot be sure of the relative quantities of re-used steel and BlueScope's internally-generated scrap steel, it appears likely that a significant proportion is not of a composition that BlueScope has controlled itself.<sup>6</sup>

Q&T steel manufactured from externally sourced greenfeed is always likely to be compositionally and mechanically different from that manufactured by SSAB EMEA. For example, BlueScope acknowledges that the scrap that it uses must undergo processing before it is introduced into the steelmaking process.<sup>7</sup> It is also common knowledge that irrespective of the processing of the scrap, some elements – such as copper and tin– cannot be removed prior to, or during the steelmaking process.<sup>8</sup> Where there are high levels of these impurities, the mechanical properties and the surface quality of the final product can be adversely impacted.<sup>9</sup>

In its reply to SSAB's initial submission, the Applicant said, about SSAB's statements concerning technical product comparisons, that:

Bisalloy views the above claims by SSAB as defamatory and misrepresentative towards Bisalloy's products. Bisalloy reserves its rights to seek recompense for damage caused to its reputation due to these comments by SSAB that have been allowed to be published by the Commission's ADA process without proper verification of their validity or otherwise, and as a result of Bisalloy simply seeking to enforce its legal rights.

The Applicant is entitled to its own opinion. However SSAB fully stands behind its statements on the superiority of its products over those that are quenched and tempered by the Applicant. The Applicant produces Q&T from greenfeed described by the Applicant itself as coming from alloyed formulations using scrap steel (as per Bisalloy Jigang's own website) that are sourced from a variety of different Asian

<sup>5</sup> Page 15.

<sup>&</sup>lt;sup>4</sup> Investigation into the Alleged Dumping of Hot Rolled Plate Steel Exported from the People's Republic of China, the Republic of Korea, the Republic of Indonesia, Japan and Taiwan: Visit Report – Australian Industry: BlueScope Steel Limited at http://www.adcommission.gov.au/cases/documents/115-VerificationReport-Applicant-BlueScopeSteelLimited.pdf

<sup>&</sup>lt;sup>6</sup> <u>http://www.sellparker.com.au/mrs/</u>

<sup>&</sup>lt;sup>7</sup> http://www.bluescopesteel.com/media/10558/Recycling%20in%20the%20Steel%20Industry.pdf

<sup>&</sup>lt;sup>8</sup> <u>http://www.livingsteel.org/sites/default/files/pdf/recycling.pdf</u>

<sup>&</sup>lt;sup>9</sup> Ibid.

suppliers and from one Australian supplier. Further, at the very least it can be said that the BlueScope supplied greenfeed is made from a proportion of externally supplied scrap steel.

In contrast, SSAB EMEA's product is consistently being made from the same high quality iron ore, and the same high quality Australian coking coal, in one continuous process that SSAB EMEA fully controls. The scrap steel used by SSAB is limited and is almost 100 percent sourced from steel manufactured by SSAB itself. The raw materials used in production, along with the exceptional procedures, personnel and equipment that SSAB EMEA has developed through its long experience in Q&T production allow SSAB EMEA to produce superior Q&T steel with unmatched mechanical properties. This complete process control is unique to SSAB EMEA.

SSAB EMEA's refined production processes give rise to the substantial differences in the quality of the product it produces, and of that produced by the Applicant.

### **B** SSAB technical superiority – toughness and hardness

Q&T steel plate is used in various mechanical structures, in which the plate will be subject to a great deal of stress and external force. A customer must be satisfied that the geometric design of the plate is best placed to avoid warping, deformation or cracking over the active life of the plate. In order to prevent this geometric change, the Q&T plate needs both "hardness" and "toughness":

- "Hardness" refers to the plate's ability to resist plastic deformity i.e, the deformation of a material undergoing non-reversible changes of shape in response to applied force. To put it another way, over a period of usage where a steel plate will be subject to stress, the harder the plate the less its geometric structure will be effected by that stress.
- "Toughness" refers to the plate's ability to resist cracking. Again, the stress applied to the plate during its use can cause fractures within the plate. The tougher the plate, the more energy required to fracture the plate.

SSAB's Q&T steel is renowned for its combination of hardness and toughness. It is these mechanical properties, coupled with superior thickness and flatness tolerances, which drive demand for SSAB's Q&T steel. Steel will crack before it is deformed, so it is important to strike the right balance between the hardness and toughness of Q&T steel plate. However, there is a trade-off; the harder the steel, the more difficult it is to make it tough. Given this trade-off, we can compare the toughness of SSAB's Hardox 450, with the toughness of the Applicant's Bisplate 450, to illustrate the benefits of SSAB EMEA's superior process control. Please refer to confidential Attachment 73 – comparison of toughness of Hardox 450 and Bisplate 450.

The continuing process control of its integrated and highly advanced production capacity allows SSAB EMEA to produce steel with unparalleled mechanical properties. This is evidenced by the above comparison of the toughness properties between SSAB's Hardox 450 and the closest comparable product – in terms of hardness<sup>10</sup> – produced by the Applicant. As we have said before, SSAB EMEA is able to produce a premium product. Customers that want precise, reliable performance attributes demand SSAB's Q&T steel.

<sup>&</sup>lt;sup>10</sup> Although, please note that the comparability relate to "surface hardness". An important factor contributing to a plate's ability to resist plastic deformation is the "through hardness" – being the hardness at the centre of the plate. The through hardness of a plate will be slightly less than the surface hardness, due to the resistance to heat transference within the plate. SSAB Hardox 450 has a minimum through hardness of 90% of its minimum guaranteed surface hardness. SSAB has not been able to find any information published by the Applicant that indicates what the through hardness of its Bisplate 450 is.



### C SSAB technical superiority – thickness and flatness tolerances

In SSAB's initial submission, SSAB explained a number of technical differences between the products produced by the Applicant and those produced by SSAB EMEA. One of the differences cited was flatness and surface tolerances of the respective products. As stated in that submission:

SSAB steel plate has a specific flatness and surface tolerance which maintains flatness. In the industry, the flattest plate is referred to as being "dead". "Dead" steel plate does not twist or warp after cutting, and requires no extra machining after cutting. No extra rework is required to be undertaken by customers, thereby reducing cost. In contrast, the Applicant's products do not have this high surface flatness feature.

To illustrate this point, please refer to confidential Attachment 74 – comparison of thickness tolerances and flatness tolerances of SSAB and Bisalloy. Attachment 74 shows that SSAB EMEA actively manufactures and offers Q&T steel to its customers with much narrower thickness and flatness tolerances in all cases, including flatness tolerances between 30% and 60% tighter than those offered by the Applicant on plates of comparative thicknesses.

SSAB EMEA submits that the difference between the thickness and finish tolerances evidences the different and more accurate technical attributes of SSAB steel, when compared to that produced by the Applicant. As SSAB has asserted previously, SSAB's Q&T steel products are sold to specific customers requiring the highest assurances of quality.

## D Prices of Q&T steel in the Australian market during 2013

During the meeting between ourselves and the Commission on 22 May 2014, we referred to and provided a price analysis to the Commission showing the different prices charged by different suppliers of Q&T steel operating within the Australian market during the POI. That document is now provided again, as confidential Attachment 75– Australian pricing information 2013.

Briefly, Attachment 75 was compiled from market intelligence that SSAB gathered in the ordinary course of its business regarding sales of what it considers to be "mid-range" plates for each month in 2013. SSAB considers that its mid-range plates are Hardox 450 and Weldox 700,<sup>11</sup> and so it has compiled data regarding the lowest price offers for corresponding products of other suppliers. For example, SSAB considers that the Applicant's mid-range products are the BIS80 and BIS400 grades<sup>12</sup>, and has incorporated the market intelligence it has regarding the median price of those products during 2013 in Attachment 75.

The graph shows that SSAB's prices were consistently the highest in the Australian market during 2013, and were generally much higher than those quoted by the Applicant. Moreover, SSAB would point out that the information in Attachment 75 does not make any allowance for rebates provided by the Applicant to its customers in 2013,<sup>13</sup> and that the SSAB prices are ex-store, whereas the Applicant's prices are FIS and so must also account for the cost of delivery to the customer that is borne by the Applicant. SSAB does not have the information that would also account for these factors. However, if the Commission was to undertake further analysis, SSAB believes that the price differences between SSAB and the Applicant would substantially increase.

Importantly, the graph also shows the relative price points of the other exporters involved in this investigation, all of which are shown to undercut the Applicant's prices.

<sup>&</sup>lt;sup>11</sup> Of a thickness between 8mm and 25mm and a length between 2500 mm and 8000 mm.

Of a thickness between 8mm to 25 mm thickness and a length between 2485 mm and 8000 mm.
Page 23 Bisalloy visit report, which notes:

As mentioned above, prior to December 2013, Bisalloy provided discounts of [basis] based on tiers of customers.

SSAB submits that the analysis evidences:

- that SSAB did not undercut the Applicant's prices in the POI;
- that SSAB occupies a different market space higher quality, and higher price to that of the Applicant and the other suppliers.

As discussed in SSAB's initial submission. SSAB considers that this reinforces the point that SSAB's customers require SSAB product and will continue to purchase that product to meet their own specific requirements and those of their customers at higher price levels that those of other Q&T steel suppliers.

Again, SSAB submits that even if dumped, SSAB's products could not have caused any injury to the Applicant.

The information in this letter supports the submission made by SSAB on 2 April 2014. There was and is no relevant "injurious" price-based interaction between the products produced by SSAB EMEA and the products produced the Applicant. Moreover SSAB's Q&T steel did not undercut the Applicant's prices, whereas our client's information is to the effect that the prices of Q&T steel supplied by exporters from other countries did so undercut the Applicant's prices.

\*\*\*\*

SSAB respectfully requests that the Commission terminate the investigation as against exports from Sweden under Section 269TDA(13) of the *Customs Act* 1901, on the basis that quenched and tempered steel exported from Sweden has not caused material injury to the Australian industry.

Yours sincerely

Daniel Moulis Principal

Encs