



12 September 2014

Ms Kerry Taylor
Director Operations 3
Anti-Dumping Commission
1010 La Trobe Street,
Docklands Vic 3008
Australia

Operations3@adcommission.gov.au

Attention: Kerry Taylor

Public File Copy

Dear Ms Taylor,

Re: Statement of Essential Facts No. 234 - Quenched & Tempered Steel Plate exported from Sweden, Japan and Finland – Bisalloy Steel Group Submission

This submission by Bisalloy Steel Group Limited ("Bisalloy") provides comments on Statement of Essential Facts ("SEF") No. 234 published on 27 August 2014. Bisalloy is seeking the imposition of interim measures on all exports of Q&T Steel Plate to Australia from Finland, Japan and Sweden.

Executive Summary

Bisalloy welcomes the findings contained in SEF No 234. Bisalloy has identified the following key issues requiring redress by the Anti-Dumping Commission ("the Commission") in its final report and recommendations to the Parliamentary Secretary to ensure the effectiveness of measures:

1. the "goods" the subject of the investigation includes "strip" steel plate and the like goods produced by the Australian industry closely resemble "strip" goods;
2. the non-injurious price for Q&T Steel Plate exported from Finland, Japan and Sweden must reflect the normal values of each exporter/exporting country to remove the injurious effects of dumping; and
3. the form of interim duties to be applied to exports of Q&T Steel Plate from Finland and Japan must be based upon the combination method as has been applied to Sweden

Bisalloy requests the Commission to revisit each of the above issues and reconsider the preliminary findings of each matter as discussed in SEF No.234. Bisalloy is available to discuss any aspect of the matters included in this submission as appropriate. I can be contacted on (02) 4272 0407 Mob: 0406317671 or Bisalloy's Consultant John O'Connor on (07) 3342 1931 Mob: 0411 252 451.

Yours faithfully,

A handwritten signature in black ink that reads 'Tom Matinca'. The signature is written in a cursive, flowing style.

Tom Matinca
Business Development and Strategy Manager
Bisalloy Steels Group Limited

Introduction

Bisalloy Steel Group Limited (“Bisalloy”) welcomes the preliminary findings of the Anti-Dumping Commission (“the Commission”) dated 27 August 2014 contained in Statement of Essential Facts (“SEF”) No. 234 on Quenched and Tempered Steel Plate (“Q&T Steel Plate”) exported from Finland, Japan and Sweden.

SEF No. 234 confirms the Commission’s findings that exports of Q&T Steel Plate to Australia from Finland, Japan and Sweden during the 2013 investigation period were at dumped prices. The dumping margins assessed by the Commission were as follows:

Country	Exporter/Manufacturer	Dumping Margin
Finland	All Exporters	21.7 per cent
Japan	JFE Steel Corporation	27.0 per cent
	<i>Uncooperative Exporters</i>	35.8 per cent
Sweden	All Exporters	34.0 per cent

The Commission further confirmed each of the following:

- the Australian industry manufacturing Q&T Steel Plate had suffered injury during the investigation period;
- the dumped exports had caused material injury to the Australian industry manufacturing like goods in the form of price depression, price suppression, reduced profits, reduced profitability, and reduced revenue; and
- that dumping and material injury will continue in the absence of interim dumping measures.

The Commission proposes to recommend to the Parliamentary Secretary that anti-dumping measures apply to future exports of Q&T Steel Plate exported from Finland, Japan and Sweden.

Bisalloy supports the Commission’s proposed recommendation to apply anti-dumping measures to future exports of Q&T Steel Plate from Finland, Japan and Sweden. By this submission, Bisalloy requests the Commission to revisit the following key matters:

- like goods, which includes Q&T Steel Plate in strip form;
- material injury remedial measures resulting from the non-injurious price applicable to the Australian industry; and
- the form of the anti-dumping measures to be applied by the Parliamentary Secretary.

1. Like Goods

The goods covered by the application as submitted by Bisalloy were as follows:

“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”

The Commission's assessment of like goods identified that Q&T steel plate is manufactured via two different techniques, namely¹:

- via steel plate that is taken offline to a separate production line and quenched (and if required tempered); or
- the steel plate is quenched (and if required tempered) as it passes through the rolling mill. This process is referred to as "direct quenching" and it is understood that Ruukki Metals Oy ("Ruukki") of Finland has direct quenching processes that combine rolling and heat treatment into a single process.

The Commission noted that Bisalloy manufactured Q&T Steel Plate via the first process as it purchases steel plate from a third party. Further, the Commission determined that "*whilst Bisalloy do not manufacture Q&T steel plate via a direct quenching method, the Commission considers that the Q&T steel plate manufactured by the Australian industry closely resembles the goods manufactured by exporters*".²

Following this conclusion, SEF No. 234 further describes the single line process of "*certain cooperating exporters*" that detailed "strip" or "coil" process. The Commission recognized that the strip manufactured by these certain exporters possesses "*similar mechanical properties*" to a steel plate product such as Brinell Hardness 400, 450 or 500 or tensile strength of 780 MPa, however, it is suggested that the strip "*may* have different characteristics to the plate" (emphasis added). The Commission states³:

"For example, the product may react differently to welding, bending and may have a different effective life in certain applications. Cooperating manufacturers claim that customers may require a strip over a plate for certain end-use applications".

The Commission includes commentary in SEF No. 234 that "*The final dimensions of the strip are generally restricted to thicknesses of between [redacted] and width of [redacted]. Cooperating exporters claim that the strip is not suitable for tempering.*"

Bisalloy was only made aware of this issue in the days prior to the publication of SEF No.234. Bisalloy swiftly responded to the matter and wrote to the Commission on 25 August indicating that the "strip" steel plate referred to by the Commission falls within the goods description as included in Bisalloy's application for measures, as goods produced from strip feed are only differentiated by dimensions which the Australian Industry confirmed applied to goods it also produced from strip feed for certain Q&T plates sizes.

The Commission noted that it had received Bisalloy's 25 August 2014 submission but had not "fully considered" it prior to the publication of SEF No. 234.

Bisalloy has reflected on the Commission's consideration of the certain cooperative exporters' claims and the available information relied upon to arrive at a preliminary viewpoint that quenched steel strip "*are not the goods*" covered by the application. It is noted by Bisalloy that:

- the Commission has concluded that Q&T steel plate manufactured by Bisalloy "*closely resembles the goods manufactured by exporters*";
- it is further stated that the strip and steel plate have similar mechanical properties and tensile strength – hence reinforcing the initial position that Bisalloy's goods "closely resemble" the exported goods;
- the Q&T steel plate manufactured by Bisalloy and "strip" can be used in the same applications, however, it is suggested that certain performance attributes *may* benefit strip over plate.

¹ Statement of Essential Facts ("SEF") No. 234, P. 20.

² SEF No. 234, P.21.

³ SEF No. 234, P.21.

The Commission's analysis would suggest that the locally produced goods, whilst not identical, do continue to have characteristics that "closely resembles" the imported strip and can be used in the same end-use applications.

The Commission's analysis is qualified with the use of the word "may" when highlighting the representations of the *certain cooperative exporters*. Bisalloy does not consider the issue to have been reasonable and fairly examined by all affected parties (i.e. including the Australian industry) prior to the Commission's preliminary assessment as detailed in SEF No. 234. Further, Bisalloy does not consider that the redaction of information – relating to product thicknesses and width – enables Bisalloy to specifically and accurately address the assertions and claims of the cooperative exporters that strip is not a good covered by the application.

Additionally, Bisalloy is concerned that the claims of the *certain cooperative exporters* were not adequately tested with Bisalloy (or independent industry experts) to enable an adequate assessment as to whether the goods have similar performance attributes in the same end-use applications.

By submission dated 25 August 2014, Bisalloy has refuted the claims that strip is a good not covered by the application. Specifically, Bisalloy reiterates the following:

*"The Australian Industry's comment to the Anti-Dumping Commission ("the Commission") regarding goods derived from strip product was based upon the understanding that strip product(s) in **TMCP form** were not intended to be covered within the good(s) under investigation. However, this did not extend to strip product in Q&T steel plate Greenfeed form which the Australian Industry itself utilizes to manufacture the goods for some thicknesses of 4.5mm and greater.*

Clearly, any goods which are manufactured from strip Greenfeed product are like goods, and in so far as Ruukki Metals Oy products are concerned these include all RAEX XXX (wear) grades and OPTIM XXXQL that are listed in Tables A-3.3.1 and A-3.3.2 of Bisalloy's Anti-Dumping Application (ADA).

The Preliminary Assessment for Ruukki manufacturing Method 2 is considered by the Australian Industry to include goods under consideration that compete directly with the like goods of the Australian industry – that is, like goods being RAEX 400, 450 and 500 grades of product manufactured from Greenfeed substrate that are then subsequently heat treated in a non-TMCP manner to produce finished Q&T plate steel.

Bisalloy reiterates that the products listed in its application in Tables A-3.3.1 and A-3.3.2, including TMCP Q&T Steel Plate whether in strip or plate form, are substitutable for Q&T Steel Plate in similar end use applications as stated in Bisalloy's application".

Bisalloy draws to the attention of the Commission its finding that the Australian industry manufactures goods that closely resemble the exported goods. This conclusion extends to "strip" products in sheet and coil form that are used in similar end-use applications to Q&T steel plate.

It is requested that the Commission reconsider its preliminary finding to exclude "strip" products from the goods the subject of the application as it is clear that the Australian industry manufactures goods that are alike to the imported strip. The imported strip products should therefore be included as like goods and subject to the anti-dumping measures.

2. Material injury to the Australian industry

Bisalloy concurs with the Commission's findings that the Australian industry has suffered injury during the investigation period. Bisalloy also agrees with the Commission's assessment that the Australian industry has suffered material injury from the dumping. The materiality of injury sustained by the Australian industry is evidenced by:

- the size of the dumping margins confirmed by the Commission that are within the range 21.7 to 35.8 per cent;
- the price undercutting evident from the dumped imports at the aggregated level was between negative 18.9 per cent to 14 percent, with the Commission “satisfied that Bisalloy has been forced to lower prices to be more competitive with dumped imports”;
- as a consequence of reducing its prices to match dumped imports, the Australian industry has suffered injury in the form of price depression and price suppression; and
- reductions in prices and margins that have negatively impacted upon the Australian industry’s revenues, profits and profitability.

Importantly, the Commission found that “the minimum amount of injury suffered by Bisalloy that can be attributed to dumped exports is reflective of the individual dumping margins” (i.e. margins in the range 21.7 to 35.8 per cent). The Commission was further satisfied “that an increase in price, equal to the lowest dumping margin calculated (after taking into account the size of the market for Q&T steel plate in Australia) was sufficient for Bisalloy to have operated (sic) profitably during the investigation period, if not for the importation of goods at dumped prices”.

The Commission’s comments confirm that the size of the dumping margins enabled exporters to undercut the Australian industry’s selling prices “to offer Q&T steel plate at significantly lower prices than would otherwise have been the case”. The dumping had caused injury that was material and was greater than what was likely to occur in the normal ebb and flow of business. This resulted in a substantial decline in the Australian industry’s profit and profitability in 2013.

Bisalloy considers that the Commission’s assessment that the dumped exports of Q&T Steel Plate from Finland, Japan and Sweden caused material injury to the Australian industry is adequately supported and evidenced by the pricing strategies of the exporters and the Australian industry’s response to the unfairly priced exports. It is Bisalloy’s view that the Commission’s findings contained in SEF No. 234 in respect of the materiality of injury sustained by the Australian industry due to dumped exports are solid and well-founded. The impact of the dumped exports at margins between 21.7 and 38.5 per cent that undercut the Australian industry’s selling prices cannot be challenged and is reflected in the Australian industry’s Q&T Steel Plate profit and profitability.

2.1. PAD and effectiveness of measures

On 15 May 2014 the Commission made a Preliminary Affirmative Determination (“PAD”) and imposed securities on future imports of Q&T Steel Plate from Finland, Japan and Sweden entered for home consumption on or after 19 May 2014. The securities applied against exports from Finland and Sweden were at less than the full margin due to the impact of the lesser duty rule, whereas securities for exports from Japan were at the full margin of dumping as preliminarily determined by the Commission.

Bisalloy has examined the available Australian Bureau of Statistics (“ABS”) import data for each country post the application of the securities (i.e. from May 2014). For exports from Finland and Sweden, it is evident that following the imposition of measures monthly export prices have further declined on average while volumes i.e. tonnes have remained at similar average monthly levels. For exports from Japan, monthly export prices have also declined on average while volumes have leveled off compared to previous periods (of higher stock building). Overall, the export prices for Q&T Steel Plate from each of the three countries has continued to decline across 2013 and to July 2014, irrespective of the imposition of securities as the Commission has noted in the SEF No.234⁴.

Please refer to Non-Confidential Attachment 1 summarizing monthly import volumes and values sourced from ABS, accompanied with graphs depicting trend-lines for FOB import prices from January 2013.

The continuing low export prices are reflected in reduced selling prices in the Australian Q&T Steel Plate market for goods exported from Finland, Japan and Sweden.

⁴ Refer SEF No. 234, Section 9.3, P61.

As a small to medium enterprise (“SME”) competing in the Australian market where the Australian industry accounts for a significantly lower market share when contrasted with the combined nominated exporter countries share of 54% during the POI, Bisalloy is disturbed by the apparent “ineffectiveness” of the securities.

The data reflected in ABS import statistics and the market intelligence confirming further reductions in selling prices for Q&T Steel Plate exported from Finland and Sweden (with recent prices for Japanese Q&T Steel Plate leveling out but still below the average monthly price over the POI) and volumes remaining at similar levels to the investigation period, highlights that the provisional measures have been insufficient to remove the injurious effects of the exports at dumped prices.

2.2. Non-injurious price

The Commission is satisfied that the dumping and material injury will continue in the absence of anti-dumping measures. Bisalloy agrees with this finding. Bisalloy also agrees with the Commission’s findings as detailed in SEF No. 234 that:

“...the minimum amount of injury suffered by Bisalloy that can be directly attributed to dumped exports is reflective of the individual dumping margins”

and, to effect relief from the injurious effects of dumping, it was further noted

“The Commission is satisfied that an increase in price, equal to the lowest dumping margin calculated (after taking into account the size of the market for Q&T steel plate in Australia) was sufficient for Bisalloy to have operated profitably during the investigation period, if not for the importation of goods at dumped prices.”

The above extracts highlighted two important considerations. The Commission is satisfied that the injury to the Australian industry is reflective of the size of the dumping margins from each exporter under investigation. That is, the Australian industry has experienced – and continues to experience – injury from export prices that reflect the dumping margins in the range 21.7 to 35.8 per cent. Securities (and any subsequent interim measures imposed by the Parliamentary Secretary) with effective rates that are lower than the full margin will therefore continue to cause material injury to the Australian industry.

The effective rate of the securities as detailed in Section 1.5.9 of SEF No. 234 confirm rates that are below the full margin of dumping for each exporting country. Export prices from Finland, Japan and Sweden that are at the so-called “non-injurious” level reflective of the securities do not remove the full injurious impacts of dumping to the Australian industry and imposes an unfair competitive environment which the exporter countries are not subject to themselves in their own countries.

By the Commission’s own admission, injury continues to be caused to the Australian industry by the **“individual dumping margins”** (i.e. from 21.7 to 35.8 per cent) and that in order to return to profit, an increase in price equivalent **“to the lowest dumping margin”** (i.e. 21.7 per cent) is required. Bisalloy submits that securities reflecting the minimum margin of dumping at 21.7 per cent would only return it to profit – this would not be sufficient for Bisalloy to return to an adequate level of profit for sustainable reinvestment purposes and long term viability as an Australian manufacturer. Securities and interim measures at the full margin of dumping are required for a return to profit for sustainable reinvestment purposes.

Prior to PAD No. 234, Bisalloy had submitted that an appropriate Non-Injurious Price (“NIP”) derived from an unsuppressed selling price (“USP”) should reflect the Australian industry’s cost-to-make-and-sell (“CTM&S”) during the investigation period, plus a level of profit achieved in the period immediately preceding the commencement of the dumping (i.e. a level of profit achieved in 2012). The NIP is used to contrast with export prices over the investigation period to apply an effective rate of security that is sufficient to remove the injurious effects of dumping. For the purposes of PAD No.234, the Commission accepted Bisalloy’s proposed USP.

In SEF No. 234, following further consideration of the issue by the Commission and certain representations on behalf of Japanese exporters, the Commission has revised its position as to an appropriate USP. The Commission examined its preferred methodologies for determining a USP (and consequent NIP). In SEF No. 234, the Commission has opted to base the USP upon the Australian industry's weighted-average selling prices for Q&T Steel Plate over the 2010 to 2012 three-year period. This has resulted in an approximate 1 per cent change to the original USP.

However, in the present circumstances, the Commission's preferred methodology for determining a USP (and NIP) are, by its own admission (that injury from dumping will continue at prices below the lowest dumping margin determined) inadequate. With the benefit of publication of SEF No. 234, Bisalloy respectfully disagrees with the Commission's proposed USP in light of the Commission's comments concerning the injury sustained by the Australian industry *is reflective of the individual dumping margins* from each of the exporting countries. This finding of the Commission, in conjunction with the Commission's conclusion that the profit-impact of the dumping at the minimum margin, indicate that the proposed USP (and that proposed by Bisalloy prior to the PAD) is insufficient to remove the injurious effects of the dumping.

An appropriate NIP required to remove injury from dumping of Q&T Steel Plate exported from Finland, Japan and Sweden must reflect the full margins of dumping as assessed by the Commission.

Following full consideration of the Commission's findings in SEF No. 234, Bisalloy therefore recommends that in order for the non-injurious price to be effective and to remove the injurious impacts of dumping on Q&T Steel Plate exported to Australia from Finland, Japan and Sweden, the NIPs should reflect the full margin of dumping.

A further compelling reason in support of the NIP reflecting the full margin of dumping is evidenced in the continuing decline in export prices for Q&T Steel Plate originating from Finland, Japan and Sweden post PAD No. 234 and imposition of securities. The securities applied from 19 May 2014 have not dissuaded exporters in all countries from raising export prices (and subsequent market offers in Australia) to non-injurious levels.

The determination of an appropriate NIP for each exporter/exporting country identified in the Q&T Steel Plate investigation is paramount to the imposition of effective measures and the Australian industry's recovery from the injurious effects of dumping. The Commission's findings that injury to the Australian industry from dumping is reflected in the individual dumping margins of the exporters is confirmation that the NIPs must reflect the full margin of dumping of each of the exporters/exporting countries. Bisalloy requests the Commission recommend to the Parliamentary Secretary that the NIP for exports of Q&T Steel Plate from Finland, Japan and Sweden reflect the full margin of dumping (for each exporter).

3. Form of proposed measures

In PAD No. 234 published on 15 May 2014, the Commission applied securities for Finland and Japan based upon the *ad valorem* duty method (i.e. a percentage of the export price). For exports from Sweden, the Commission applied the combination method for duties which include fixed and variable components. The combination method for exports from Sweden was recommended by the Commission due to the "*complex company structures involving related parties*" between the exporter and importer.

SEF No. 234 has again proposed that interim measures be applied by the Parliamentary Secretary using the *ad valorem* method for exports from Finland and Japan, and the combination method for exports from Sweden.

Bisalloy strongly urges the Commission to reconsider the proposed recommendations concerning the form of duty to be applied to exports from Finland and Japan.

Following further declines in average export prices for Q&T Steel Plate to Australia from Finland, Japan and Sweden post PAD No. 234, Bisalloy firmly considers that the *ad valorem* method upon which the interim measures are based does not deter exporters from reducing export prices and thereby paying less amounts of interim duty. The Australian Industry believes that further declines in average export prices post PAD No.234

points to the appearance of circumvention being undertaken by exporters from the nominated countries. By contrast, the combination method includes both a fixed and variable component where the variable component addresses reductions in the export price below the ascertained export price for the investigation period.

Of additional concern to Bisalloy is the recent change in ownership of Ruukki of Finland. On the 29 July 2014 Ruukki was purchased by SSAB Emea of Sweden – the exporter of Q&T Steel Plate from Sweden with dumping margins determined by the Commission of 34 per cent. As highlighted above, the Swedish exporter of goods (i.e. SSAB Sweden) is related to the Australian importer and the Commission has found that the export price was not arms length and was influenced by the relationship (an subsequently determined under s.269TAB(1)(c) of the *Customs Act*).

Bisalloy contends that the form of the measures to be applied to future exports from Finland by the former Ruukki (and now SSAB) should be consistent with the form of measures applicable to exports from Sweden (i.e. based upon a combination method).

Bisalloy concurs with the Commission that it is appropriate for the anti-dumping measures applicable on exports of Q&T Steel Plate from Sweden to be calculated using the combination method. The available information on exports from Finland, Japan and Sweden post PAD No.234 reflects further reductions in monthly average export prices for exports from each country compared to previous relevant periods, by as much as 10 per cent in exports during June and July 2014.

The change in ownership of Ruukki, Finland to SSAB of Sweden, along with further reductions in export prices for goods originating from Finland post PAD No.234, warrant a change in the basis of an appropriate form of measures to be applied to future exports of Q&T Steel Plate from Finland. In respect of Japan, the reductions in average monthly export prices post the PAD No.234 compared to previous relevant periods also warrant a reconsideration of the form of the duty to be applied. Bisalloy requests that the Commission recommend to the Parliamentary Secretary that the form of measures to be applied to Q&T Steel Plate exported from Finland and Japan be based on the combination method, to align exports from Finland with its new parent entity and to deter further reductions in export prices (resulting in lower interim duty payments and circumvention for exports from both Finland and Japan) and to reflect a consistent approach to the measures recommended for the related entity SSAB of Sweden.

	Jan'13	Feb'13	Mar'13	Apr'13	May'13	Jun'13	July'13	Aug'13	Sept'13	Oct'13	Nov'13	Dec'13	Jan'14	Feb'14	Mar'14	Apr'14	May'14	Jun'14	July'14	
Finland																				
AUD\$/Tonne	\$1,450	\$1,616	\$1,739	\$1,316	\$1,389	\$1,393	\$1,585	\$1,421	\$1,363	\$1,448	\$1,670	\$1,317	\$1,191	\$1,191	\$1,280	\$1,336	\$1,750	\$1,234	\$1,352	
Import/Tonnes	191	177	27	174	239	398	146	80	105	24	134	49	411	77	19	288	157	209	148	
Sweden																				
AUD\$/Tonne	\$1,910	\$1,824	\$1,925	\$1,809	\$1,800	\$1,846	\$1,627	\$1,759	\$1,661	\$1,829	\$1,701	\$1,715	\$1,700	\$1,718	\$1,650	\$1,594	\$1,748	\$1,625	\$1,487	
Import/Tonnes	2,186	2,782	2,601	1,815	601	1,233	1,461	725	185	1,585	1,090	798	1,461	1,185	2,408	2,281	3,156	1,965	1,036	
Japan																				
AUD\$/Tonne	\$1,361	\$1,713	\$1,411	\$1,335	\$1,581	\$1,343	\$1,445	\$1,459	\$1,413	\$1,617	\$1,390	\$1,940	\$1,399	\$1,270	\$1,467	\$1,264	\$1,215	\$1,277	\$1,282	
Import/Tonnes	417.11	1006.71	2321.136	2341.71	930.12	884.77	2272.412	1962.51	1406.45	446.81	1063.15	318.85	928.07	847.74	419.37	536.58	819.812	394.26	472.5	

