



Total Steel

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20 March 2019

The Director - Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

By email: investigations2@adcommission.gov.au

Dear Director,

RE: Continuation Inquiry No. 506 into Anti-Dumping Measures

Total Steel Australia Pty Ltd (TSA) is an importer of steel, and is a related entity of JFE Steel Corporation (JFE), an exporter of steel from Japan. TSA and JFE were deemed cooperative under the initial anti-dumping investigation 234.

TSA is an interested party to the Continuation Inquiry, and makes the following initial submissions in respect of why the Commissioner ought reasonably be satisfied that the continuation of measures insofar as Japan is concerned, but more particularly JFE, should not be continued.

TSA submits with its confidential submissions two confidential documents:

- Confidential Appendix A - TSA Import data from JFE for 2016, 2017 and the investigation period 1 January to 31 December 2018.
- Confidential Appendix B - TSA's Australian Sales Data for the investigation period.

1. Executive summary

1.1 The Applicant's submissions in support of continuation is substantively focussed on two countries of origin: Finland and Sweden. While the Applicant has included Japan as being required to remain subject to the anti-dumping measures, there is no justification for doing so. That is because of the following matters:

(a) **Volume:**

- (i) The imports from Japan are negligible at ~7% for 2018 in total. We note that the export/import from JFE to TSA are di minimis and significantly less than 1% in the investigation period between 1 January to 31 December 2018. As the volume is negligible there can be no suggestion there is any causative relationship between its exports and the Applicant's allegation of current material injury.
- (ii) The evidence relied on by the Applicant is focussed on Sweden, and to a lesser extent Finland, but no credible evidence is provided against Japan generally. No evidence is provided against JFE specifically;

- (b) **Price:** The confidential price information concerning TSA's imports to Australia demonstrates a competitive pricing, but not that JFE's exports are at dumped prices.¹

¹ Confidential Appendix B.
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- (c) **Market share:** TSA has imported negligible volumes from JFE. While this shows they have maintained a distribution channel, plainly there is, and has not been, any objectively apparent motivation to secure a significantly increased market share in Australia. This may be contrasted with Sweden and Finland the major focus of the application.
- (d) **Domestic production and supply:** A relevant question for the Commissioner to ask of the Applicant is the level of the Applicant's own imports to Australia from other countries to make up its own supply to the Australian market, and whether or not those supplies are from countries not the subject of the original dumping investigation; any importation by the Applicant would tend to suggest it is more than capable of importing supply at competitive prices.
- (e) **Supply sources from other countries:** the ABS statistics relied on by the Applicant demonstrate that ~37% of all exports to Australia are from countries not subject to dumping measures. The Applicant's silence in respect of those countries would tend to suggest that no injury has resulted from those imports. However, the Applicant should have but has not sought to address the impact of the other export countries on sales, the Australian market and the Applicant's competitiveness. The Commissioner cannot, therefore, exclude the real possibility that other exporters from exempt countries have impacted the Applicant's business and could be the real cause of any threatened or potential future material injury.
- (f) **No material injury (or risk) if measures expire for Japan or JFE:** In all the circumstances, the Commissioner cannot be satisfied that the expiration of measures will lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping insofar as JFE is concerned.

Detailed comments and response to Bisalloy's Application

2. Countries and volumes of export

- 2.1 The Applicant's submission² makes it clear that the exporters that are of concern are predominantly Sweden, followed by Finland. Japan was the third country of export at the time of the dumping investigation and original measures. In relation to Japan, it has been indiscriminately included by the Applicant. The indiscriminate conflation of Japan with the other exporters does not withstand closer scrutiny.
- 2.2 The Applicant submits that it "has determined that exports from Finland, Japan and Sweden have been at above negligible levels during 2018".³ It cannot be determined how this conclusion was arrived at in respect of Japan. The evidence plainly does not support that conclusion in respect of Japan generally, but more particularly, JFE and TSA, are exporting and importing at negligible levels.
- 2.3 The Applicant's submission contains the following Table and accompanying explanation:⁴

² Document 506-001.

³ Document 506-001, page 4.

⁴ Document 506-001, page 5.

Table 1 – imports of Q&T steel plate from Finland, Japan and Sweden 2016 to 2018 (metric tonnes).

Country	2016	2017	2018
Finland	2317	4808	2164
Japan	1477	2245	4389
Sweden	17979	25840	29407
Sub-Total	21773	32894	35959
Other	16826	25484	21383
Total	38599	58378	57342

Source: ABS Import data at Confidential Appendix 2 (Raw data at Confidential Attachment 4).

Table 1 confirms that exporters in Finland, Japan and Sweden have continued to export Q&T steel plate to Australia following the imposition of measures in November 2014. Since 2016, imports from the nominated countries have increased by 65 per cent – reflecting increased demand in the mining industry.

- 2.4 TSA's confidential submission sets out for Japan the amount of goods imported by TSA from JFE for the relevant periods.
- 2.5 Notably the ABS data records other countries with higher exports to Australia than Japan, which make up the remaining ~37% of market imports. Given those other countries make up a significant proportion of overall imports and are not subject to dumping measures, the Applicant should have but has not sought to address the impact of the other export countries on sales, the Australian market and the Applicant's competitiveness. The Commissioner cannot, therefore, exclude the real possibility that other exporters from exempt countries have impacted the Applicant's business and could be the real cause of any threatened or potential future material injury.
- 2.6 The Applicant also acknowledges that:
- Bisalloy's sales of Q&T steel plate have increased over the last three years coinciding with increased demand, however, Bisalloy's margin (i.e. selling price over costs) has been eroded and this can be attributed to the increased level of sales from the nominated countries *(particularly from Sweden)*.
- (emphasis added)
- 2.7 When taken together, Sweden and the Other exporters constituted ~88% of all exports of Q&T steel plate to Australia.
- 2.8 Given the Applicant's concession that Sweden is the principal source of its alleged injury on margin erosion, it is plainly inappropriate to assert that is "... attributed to the increased level of sales from" Japan, but in particular, JFE goods.

3. Allegation that JFE exports and TSA imports at dumped prices

- 3.1 The Applicant:
- (a) submits that "... importers identified in Investigation 234 continue to be suppliers of the goods into the Australian market in 2018, and the importers continue to offer supply of Q&T steel plate from Finland, Japan and Sweden at competitive (i.e. dumped) prices (refer further at (iii) below)";⁵ and

⁵ Document 506-001, page 5.

- (b) "estimate[s] that the Q&T steel plate exports from Finland, Japan and Sweden held approximately xx per cent market share in 2018 – a substantial and influential share of the market demonstrating a continued presence that impacts the Australian industry's sales volumes and selling prices";⁶
- (c) "... has examined that economics of exporters of Q&T steel plate exporting to Australia from Finland, Japan and Sweden and has assessed that dumping margins above negligible levels exist for exports to Australia during 2018 (refer Confidential Appendix B3 – Dumping Margins)";⁷ and
- (d) submits that "[t]he market analysis confirms that over the last three year period 2016 to 2018 the Australian market for Q&T steel plate has expanded. Imports from the countries the subject of the measures have increased by 65 per cent since 2016, with imports from countries not the subject of measures have increased by 27 per cent. The total Australian market for Q&T steel plate has increased by approximately 60 per cent".⁸

Each of the Applicant's submissions on these issues do not withstand greater scrutiny.

- 3.2 First, the Applicant submits that competitive pricing is synonymous with dumping which is false. Dumping is defined by reference to the normal value of the goods (actual or constructed) for which they are sold in the country of export. A mere competitive price in the Australian market is not evidence of dumping.
- 3.3 Second, the Applicant has not disclosed any reason why its estimate of market share is commercial in confidence. Nevertheless it is clear from the ABS data which has been provided that Japan does not, and could not, represent a "substantial and influential share". Yet again, the Applicant undiscerningly conflates Japan with the other exporters subject to measures without regard to the reality of the ABS data.
- 3.4 Third, the Applicant submits that the export countries the subject of the measures represent 65% of the increased exports. It is apparent that of those subject to measures, Sweden has been responsible for the greatest increase.
- 3.5 Fourth, it is telling that the relevant market for Q&T steel plate has expanded, according to the Applicant, by 60%. The Applicant does not suggest it could have met the supply of this increase in demand. It follows, necessarily, that there would be an increase of export to Australia to meet the market need. None of this conduct is consistent with dumping.

4. Market intelligence and Applicant's construction of "Normal Value"

- 4.1 In respect of Market Intelligence, the Applicant submits redacted information which is directed to only "...SSAB (sourcing from both Finland and Sweden)".⁹ The Applicant has not provided any evidence that the sales from Japan, but in particular JFE, are undercutting the Applicant by virtue of dumping. More specifically, the submission from the Applicant links both that alleged undercutting practice from Sweden and Finland with its own behavioural change, such that "... in order to secure volumes Bisalloy was required to price competitively with the imports from Finland and Sweden".¹⁰ The Applicant identifies no Japan activity impacting or influencing the Applicant.
- 4.2 These criticisms are entirely focussed on Sweden and Finland. It underscores the very reason that Japan, and more particularly JFE, cannot be responsible for any undercutting that the Applicant asserts is prevalent. There is, therefore, coupled with the de minimis exports from Japan, no credible

⁶ Document 506-001, pages 5-6.

⁷ Document 506-001, page 6.

⁸ Document 506-001, page 6.

⁹ Document 506-001, pages 7-8.

¹⁰ Document 506-001, page 8.

evidence to suggest the alleged material injury suffered (or expected to be suffered if the measures aren't continued) is a result of the Japanese exports.

4.3 Notwithstanding those submissions, the Applicant states that it has:

"...demonstrated in this application (refer Confidential Appendix B3 – Dumping Margins) that exports of Q&T steel plate from Finland, Japan and Sweden have been at dumped prices during 2018. In responding to price offers from imports sourced from [supplier], Bisalloy is experiencing ongoing injury through prices suppression (as it was prevented from raising selling prices to recover higher production costs)".¹¹

4.4 It is, therefore, plainly inappropriate for the Applicant to make its submissions and evidence focussed on Sweden and Finland, but subsequently conflate Japan and, therefore JFE, with the criticised conduct. Plainly there is no reasonable evidentiary basis for the Applicant to make this generic submission in circumstances where it has no evidence that Japan or more particularly JFE has been exporting to Australia at dumped prices.

4.5 The Applicant states that it "has constructed normal values for Q&T steel plate in Finland, Japan and Sweden on a basis consistent with the constructed normal values in its original application".¹² A calculation performed by the Applicant (being " Confidential Appendix B3 – Dumping Margins") cannot be commercial in confidence where it is said to be constructed from market data. It is not clear on what basis the Applicant can claim that this is confidential information and any claim to confidentiality ought be rejected. The Commission ought to make the Applicant's constructed normal values available to all interested parties.

4.6 TSA provides with its confidential submission **Confidential Appendix B**, which sets out the actual domestic sales pricing relevant to its di minimis imports for 1 January to 31 December 2018 from JFE. It demonstrates competitive pricing in the Australian market, but not at dumped prices.

5. The Commissioner cannot be satisfied that material injury will recur for Japan

5.1 In light of the foregoing, TSA submits that the Commissioner cannot be satisfied, and therefore cannot be in a position to recommend the continuation of measures. The application should be rejected insofar as Japan is concerned and JFE in particular. The Applicant has not included any credible evidence which would tend to suggest that exports from Japan are now or willing continue to injure the Australian market.

5.2 The Commissioner must not recommend continuation unless satisfied that expiration of the anti-dumping measure would lead to a continuation, or recurrence, of the dumping or subsidisation, and of the material injury.

5.3 The following factors that the Commission considers when making the recommendation are either neutral or all weigh in favour of JFE and point against the continuation of anti-dumping measures against JFE:

- (a) **Volume** - the volume of exports from Japan are relatively low, but specifically from JFE are negligible, meaning there can be no suggestion there is any causative relationship between its exports and the Applicant's allegation of current material injury.
- (b) **Price** - the confidential price information concerning TSA's imports to Australia demonstrates a competitive pricing, but not that JFE's exports are at dumped prices.
- (c) **Market share** - TSA has imported negligible volumes from JFE such that while maintaining a distribution channel, plainly there is, and has not been, any objectively apparent motivation

¹¹ Document 506-001, page 8.

¹² Document 506-001, page 4.

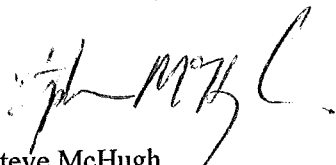
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to secure a significantly increased market share in Australia; that may be well contrasted to Sweden and Finland the major focus of the application.

- (d) **Domestic production and supply** - a relevant question for the Commissioner to ask of the Applicant is the level of the Applicant's own imports to Australia from other countries to make up its own supply to the Australian market, and whether or not those supplies are from countries not the subject of the original dumping investigation; any importation by the Applicant would tend to suggest it is more than capable of importing supply at competitive prices.
- (e) **Supply sources from other countries** - the ABS statistics relied on by the Applicant demonstrate that ~37% of the relevant imported model of steel is sourced from countries not subject to any anti-dumping measures. The Applicant's silence in respect of those countries would tend to suggest that no injury has resulted from those imports. However, the Applicant should have but has not sought to address the impact of the other export countries on sales, the Australian market and the Applicant's competitiveness. The Commissioner cannot, therefore, exclude the real possibility that other exporters from exempt countries have impacted the Applicant's business and could be the real cause of any threatened or potential future material injury.

- 5.4 In all the circumstances, the Commissioner cannot be satisfied that the expiration of measures will lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping insofar as TSA and JFE are concerned. The measures ought be permitted to expire insofar as Japan is concerned generally, but more particularly, TSA and JFE should be recommended to be exempted from any continuation of measures.

Yours sincerely,



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