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commercial + international

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Thuy Le  
Case Manager  
Investigations 4  
Anti-Dumping Commission  
215 Spring Street  
Melbourne  
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By email

Dear Thuy

## **SSAB - quenched and tempered steel plate from USA Matters for investigation - Bisalloy sales and financial performance**

We refer to our previous submissions on behalf of the SSAB group of companies, of which extensive unredacted content has been placed on the public record. We have done so in compliance with Section 269ZJ of the *Customs Act 1901*.<sup>1</sup> More importantly, we have done so to assist the Commission in its inquiries, and to promote fair and open debate concerning the matters that have been alleged by the Australian industry, Bisalloy Steel Group Ltd (“Bisalloy”), in its application.<sup>2</sup>

We adopt the same approach in this submission, and further advise that our client will be fully receptive to any further inquiries the Commission may wish to make of it.

### **A Bisalloy’s Australian market sales and the role of “other imports”**

In our submission dated 3 August 2021,<sup>3</sup> we asked, amongst other things:

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<sup>1</sup> Unless otherwise indicated, references to “the Act” and statutory provisions are references to this Act and its statutory provisions.

<sup>2</sup> *Application for the publication of dumping duty notices – Quenched and Tempered Steel Plate exported from the United States of America* dated 5 February 2021. See EPR578, doc 1.

<sup>3</sup> See EPR 578, doc 9.

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- whether Southern Steel sells finished Q&T steel plate manufactured by Bisalloy Shandong, or any other foreign manufacturer, in the Australian market; and
- whether that steel was imported by Southern Steel or by traders, and whether Bisalloy had a role in those transactions or was aware of them.

In response, Bisalloy has stated, in its submission dated 25 August 2021:<sup>4</sup>

*Bisalloy also seeks to correct the unsubstantiated claim in the 3 August 2021 submission that Bisalloy Steels Pty Ltd has imported Q&T steel plate from its Joint Venture Company, Bisalloy Shangang (Shandong) Steel Plate Co., Ltd for sale into the Australian market. Bisalloy has not imported the subject goods from its Chinese JV partner.*

The problem with that response from Bisalloy is this - we made no such claim. So why is Bisalloy so quick to deny something that has not been alleged? Possibly, because something similar, related to sales of imported Q&T steel plate in the Australian market, has been taking place. A key aspect of Bisalloy's application is the claim that "[t]he Australian industry did not benefit from any of the market growth that was evident in 2020".<sup>5</sup> Thus, working out whose sales did benefit from that market growth is an important aspect of this investigation.

We make these observations.

- 1 Bisalloy seems to disagree with itself, in relation to whether it has imported Q&T steel plate from China, and more specifically from Bisalloy Shandong, when it states the following in its application:

*Bisalloy has a 42 per cent equity stake in a Cooperative Joint Venture (CJV) in the People's Republic of China – Bisalloy Shangang (Shandong) Steel Plate Co., Ltd for the manufacture and distribution of Bisplate Quenched and Tempered Steel Plate under license in the People's Republic of China. Bisalloy therefore imports some limited grades of Quenched and Tempered ("Q&T") Steel Plate. [underlining supplied]<sup>6</sup>*

The clear implication of the last sentence, in an application that relates to certain goods under consideration, in a certain investigation period, and in a paragraph which refers solely to Bisalloy Shandong, is that Bisalloy imported quenched and tempered steel plate from Bisalloy Shandong in the investigation period.

- 2 Bisalloy issued an "ASX/Media Release" on 24 January 2020,<sup>7</sup> the first paragraph of which stated:

*Bisalloy Steel Pty Ltd has announced the signing of a supply agreement with Leong Jin (Changzhou) Special Steel Co. Ltd through which a broader range of premium wear*

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<sup>4</sup> See EPR 578, doc 11.

<sup>5</sup> See EPR 578, doc 1, page 18.

<sup>6</sup> See EPR 578, doc 1, page 8.

<sup>7</sup> See Attachment 1.

*and structural Q&T steel products will be supplied exclusively to the Australian market to service growing customer demands and enter new market segments.*

The expectation is that such an announcement would presage exactly what it states – the sale of wear and structural grade Q&T steel plate from China, by Bisalloy, in the Australian market. We submit that this should also be a line of inquiry for the Commission to pursue.

- 3 Also for the purposes of making further inquiries about these confusing aspects of the application, we wish to report **[CONFIDENTIAL TEXT DELETED – market information source]** that Bisalloy made an approach to the market, during the investigation period, to “offload” a very large quantity of Q&T steel plate manufactured by Chinese manufacturer “XJC” (likely to be Jiangyin Xingcheng Special Steel Works Co. Ltd) at extremely low prices.<sup>8</sup> The customer indicated that the likely purchaser of same, or one of the purchasers, was **[CONFIDENTIAL TEXT DELETED – name of buyer]**.<sup>9</sup> How these goods came to be in Australia, and why Bisalloy should be involved in selling lower-priced imported Q&T steel plate against its own Australian-processed Q&T steel plate, should be matters for investigation.<sup>10</sup>
- 4 The information set out in 3 above causes us to question Bisalloy’s candour in the application, with respect to one question in particular. Question 3 of Section A-5 of the application, which is in the section headed “*Applicant’s Sales*”,<sup>11</sup> asks:

*Complete appendix A5 (sales of other production) if you have made any:*

- *internal transfers; or*
- *domestic sales of like goods that you have not produced, for example if you have imported the product or on-sold purchases from another Australian manufacturer.*

Bisalloy responded to that question as follows:

*Bisalloy does not domestically sell goods to related parties. All domestic sales by Bisalloy are to third party companies. This question therefore does not apply and Bisalloy does not need to complete Confidential Appendix A5.*

We submit that Bisalloy has not provided a complete answer to the question, in that the second limb has not been addressed. The second limb of the question asks whether the applicant has made domestic sales of like goods that it did not produce. No answer is provided. Our client

<sup>8</sup> For more information concerning XJC, see <https://www.youtube.com/watch?v=ydaXxjEbJkM> (in particular, at 3m:34sec regarding Australia as an export destination).

<sup>9</sup> For more information concerning **[CONFIDENTIAL TEXT DELETED – name of buyer]**, see **[CONFIDENTIAL TEXT DELETED – identification of buyer]**.

<sup>10</sup> See Attachment 2 **[CONFIDENTIAL ATTACHMENT]**, which is a Bisalloy price list dated November 2020, which gives credence, to the extent of confirming, Bisalloy sales of XJC material, despite the statement in its application that “*Bisalloy does not need to complete Confidential Appendix A5*”.

<sup>11</sup> Investigation 578, EPR Document No. 002, *Bisalloy Steels Pty Ltd - Application for Dumping Investigation*, page 19.

believes the market information set out in 3 above is reliable, and if that is the case Bisalloy should have completed appendix A5. If it has not done so, in circumstances in which it should have, it will have misled the Commission about its sales, a factor which is the main point of its argumentation in this investigation. Clarity about market behaviours is therefore critical.

5 We have put on record information about the connections, both corporate and commercial, between Bisalloy and “Southern Steel”. There has been no comment placed on the public record by Southern Steel, whether in regard to the suggestion that Bisalloy and Southern Steel are engaged in a common endeavour in the Australian market, or with regard to competition in the market, such as might assist the Commission’s inquiries. This is entirely a matter for Southern Steel, and we are not suggesting that there is some legal compulsion for it to provide any comments to the Commission. For the Commission’s further consideration, we provide with this submission copies of “SSG-Rigby Jones Steel Environment Customer Updates” of February and May of this year.<sup>12</sup> We recognise that these were published outside the investigation period. However, in the expectation that Southern Steel’s supply network was similar in the investigation period to that described in the Updates, we wish to draw the Commission’s attention to these references:

- *“...we are unsure as to when prices will start to revert back to their historical levels, but we are watching the Chinese New Year period with interest to see how steel manufacturers and traders around the world, particularly in PRC, respond as they return to work later this month”* (February 2021 Update); and
- *“...we have maintained our philosophy of dual supply from our trusted local manufacturers as well as our offshore suppliers”* (May 2021 Update).

If these references relate to Q&T steel plate, they would make plain the fact that Southern Steel seeks prices, and therefore potentially imports such goods, from Chinese manufacturers and traders, and that Southern Steel has “offshore suppliers”. Confirming this information would also assist in giving the Commission a clearer picture of the conditions of competition at the lower-price level in the market.

We submit that Bisalloy’s only complaint is of volume injury. It voices this complaint in circumstances where SSAB neither increased the volume of its sales, nor its market share, in an Australian market that itself increased in size in 2020 over 2019. The import statistics quoted by Bisalloy show that imports classed as “other” increased by 6,300MT in 2020, which is a 55% increase over 2019. Understanding the price and volume impacts of “other” imports is a key element of this investigation.

As we believe the data that SSAB AU has submitted to the Commission will demonstrate, in combination with the data the Commission will gather from other sources, SSAB AU’s sales volume of Q&T steel plate, from whatever origin, did not increase in 2020. Nor, obviously, did SSAB AU’s market share, given that the Australian market increased in volume terms in 2020 over 2019.

<sup>12</sup> See Attachments 3a and 3b. Rigby Jones is a “member of the Southern Steel Group” as per its website at <https://www.rigbyjones.com.au/>.

Furthermore:

- SSAB AU does not differentiate in its pricing as between Q&T steel plate exported to Australia from SSAB facilities, wherever they may be located;
- SSAB's product is uniformly of high quality, occupying the "premium" part of the market; and
- on our calculations SSAB AU's pricing was above the weighted average unsuppressed selling price, and routinely the highest in the market.

We request the Commission to make inquiries of Bisalloy to better understand the issues raised by these facts, and to ask Bisalloy to openly share with the Commission its knowledge of the conditions of competition in the Australian market in the relevant period. Bisalloy's application and its submissions to the Commission are incomplete and confusing, and as currently stated do not assist the Commission.

## B Bisalloy's financial performance in H2 2020

Our continued agitation of a closer consideration of volume and price issues by the Commission should not be interpreted as a concession that Bisalloy's allegation that it has been caused injury, by any cause, may have some validity. The position is quite the opposite. In light of Bisalloy's continuing regulatory disclosures, the suggestion that it was injured in the investigation period seems to have no merit.

As a listed entity, Bisalloy must report its half year and full year financial performance. We have compiled the following table of half yearly revenue results from Bisalloy's publicly available information:<sup>13</sup>

In thousands of dollars, half year ending:	31-Dec-18	30-Jun-19	31-Dec-19	30-Jun-20	31-Dec-20	30-Jun-21
<b>Sale of steel plates, Australia</b>	40,173	29,110	49,365	37,389	39,081	43,418

In the first half of the investigation period, Bisalloy generated AUD37.489 million from sales of steel plates in the Australian market. In the second half of the investigation period, Bisalloy's performance was 4.5% better than in the first half, generating AUD39.081 million. Evidently, "Sales of steel plates, Australia" may not be coterminous with "sales of like goods" to the goods under consideration. Nonetheless, assuming a similar proportion of subject goods amongst all steel plate sold in Australia in the two half-year periods, SSAB submits that these statistics show that Bisalloy's claims of financial injury in the second half of the period of the investigation are without merit.

<sup>13</sup> Each half year sales of steel plate reported by *Appendix 4D - Half Yearly Financial Reports* - six months ended 31 December 2018, 31 December 2019 and 31 December 2020 was subtracted from the sales of steel plate reported in the full year audited report to find Bisalloy's revenue from sales of steel plate in the Australian market for each half year. Available online at: <https://www.bisalloy.com.au/investor-centre/financial-reports/>.

In relation to the threat of injury to the Australian market, we note the 11% actual increase in Australian sales revenue in the first half-year after the investigation period, as shown on the above table. Thus, in the “imminent” period in which threat must be established, so as to justify the imposition of measures on that basis, Bisalloy has performed better than at any time in the two years before.

We also kindly request the Commission to consider the following statements published by Bisalloy about its financial performance. As sales of Q&T steel plate is Bisalloy’s main business, we expect the trends to be directly relevant to the current subject matter:

- Bisalloy’s margin per tonne for domestic Australian sales “*was well up on FY20 as has occurred across the Australian steel industry*”.<sup>14</sup>
- “*Bisalloy is forecasting profitability to be up in FY22*”.<sup>15</sup>
- “*...Covid-19 has not had a material impact on FY21 demand in Australia or China, the impact on demand in Thailand, Indonesia and our export Armour business continues to be affected*”.<sup>16</sup>
- “*Operating EBITDA*” (earnings before interest tax depreciation amortisation) up 25.4% in FY2021 compared to FY2020.<sup>17</sup>
- “*Net profit after tax*” up 31.1% in FY2021 compared to FY2020.<sup>18</sup>

## C Presentation at importer verification on injury and causation claims

As invited by the Commission, we now provide an edited transcript of the abovementioned presentation, at Attachment 4.

Yours sincerely



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<sup>14</sup> Bisalloy Steel Group Limited, 26 August 2021, *ASX / MEDIA RELEASE*, page 1. Available online at: <https://www2.asx.com.au/markets/trade-our-cash-market/announcements.bis>.

<sup>15</sup> Bisalloy Steel Group Limited, *2021 Financial Report*, page 8. Available online at: <https://www.bisalloy.com.au/wp-content/uploads/2021/08/Financial-Report-FY21.pdf>.

<sup>16</sup> Ibid, page 7.

<sup>17</sup> Bisalloy Steel Group Limited, 26 August 2021, *ASX / MEDIA RELEASE*, page 1. Available online at: <https://www2.asx.com.au/markets/trade-our-cash-market/announcements.bis>.

<sup>18</sup> Ibid.