Canberra
6/2 Brindabella Circuit
Brindabella Business Park
Canberra International Airport
Australian Capital Territory 2609

Brisbane
Level 4, Kings Row Two
235 Coronation Drive
Milton, Brisbane
Queensland 4064

Melbourne
Level 39, 385 Bourke Street
Melbourne
Victoria 3000

Australia

Canberra +61 2 6163 1000
Brisbane +61 7 3367 6900
Melbourne +61 3 8459 2276

www.moulislegal.com

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15 December 2021

Ms Thuy Lee
Case Manager
Investigations 4
Anti-Dumping Commission
Level 6, 215 Spring Street
Melbourne
Victoria 3000

By email

Dear Thuy

SSAB – quenched and tempered steel plate from USA
Concerning unsuppressed selling price, and end-user opinions

We have been instructed by our client SSAB to respond to the two letters of Bisalloy Steels Pty Ltd ("Bisalloy") dated 26 October 2021 and 15 November 2021, as appear on the public record of this matter.[1]

[1] 578 EPR Document Nos. 13 and 19.

A Understanding what an "unsuppressed selling price" indicates

We note Bisalloy's statement, in its 15 November letter, to this effect:[2]

> *Bisalloy Steel's requests the Commission to dismiss SSAB Alabama's representations that seek to attribute injury to the Australian industry to factors other than SSAB Alabama's exports to Australia during the 2020 investigation period.*

In our submissions we have demonstrated that SSAB Alabama's exports to Australia cannot have caused material injury. Further, we have documented that Bisalloy's financial performance is not indicative of injury at all. Lastly, we have explained how Bisalloy chooses to compete in the Australian market.

An "unsuppressed selling price" is a price at which an Australian industry should be able to compete in the Australian market and not be injured by dumping. It establishes a price level that covers the Australian industry's costs and includes a margin for profit. A non-injurious price is the minimum FOB export price an exporter must observe so as to allow the Australian industry to achieve the USP, after adding to that export price all of the costs, from the FOB port to the Australian customer, and the appropriate Australian-side profit, involved in getting the exporter's product to the point of competition with the Australian industry.

Thus, in the case at hand, if SSAB AU is selling to its Australian customers at a price that is at or higher than the unsuppressed selling price, no injury is being caused, whether or not there is a dumping margin at the FOB level. In our submission dated 20 July 2021 we established that SSAB AU's selling prices in the Australian market exceeded the unsuppressed selling price. To do this we "carried forward" the Commission's own 2018 calculation of the unsuppressed selling price to the period of investigation by using Bisalloy's own cost information, as it appears in its application.[3]

The unsuppressed selling price does not lack relativity, as claimed by Bisalloy in its letter. Our calculations of the 2020 unsuppressed selling price are based on the same assumptions as the 2018 unsuppressed selling price, using the changes in costs that Bisalloy reported in its application.

The unsuppressed selling price is not meaningless, as also claimed by Bisalloy in its letter. It is entirely meaningful, and entirely relevant to the exercise upon which the Commission is engaged. SSAB AU's selling prices were above the level at which the Australian industry was or should have been able to compete in the Australian market and not be injured by dumping. That level was transparently explained in the previous continuation inquiry, and can be worked out for the investigation period by using the cost information presented by Bisalloy in its application. Thus, Bisalloy was not injured by dumping in the investigation period.

We also draw attention to our submission dated 3 August 2021, and in particular the chart headed **[CONFIDENTIAL TEXT DELETED – commercial details related to confidential chart in previous**

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2 EPR 578 Document No. 13, page 2.

3 In the period since then, in the process of assisting the Commission with its importer verification inquiries, it came to our attention that the line graph presented to the Commission in our 20 July 2021 submission, comparing the weighted average price of SSAB AU's Australian sales containing GUC from USA with the 2020 Bisalloy USP, understated the amount by which SSAB's prices exceeded the USP **[CONFIDENTIAL TEXT DELETED – % amount of price understatement and explanation of price and cost assumptions based on SSAB AU commercial operations]**.

submission]. This chart demonstrates that SSAB AU's prices for that particular kind of high-volume steel plate were higher than the unsuppressed selling price, and that Bisalloy's published price offers **[CONFIDENTIAL TEXT DELETED – commercial details related to confidential chart in previous submission]** undercut its own unsuppressed selling price.

B Views of interested parties

We have the following observations regarding Bisalloy's 16 November letter.

1 Unwarranted criticism of interested parties

Bisalloy attempts to deny and discredit the clearly expressed preferences, of a number of interested parties, for SSAB quenched and tempered steel plate:

> *The commentary that refers to Bisalloy's performance of its structural and wear grades demonstrates in each Questionnaire Response a preference for the incumbent SSAB supplied imported Q&T steel plate. This would be expected as there exists a financial incentive to continue to purchase SSAB Q&T steel plate at dumped prices (in the absence of measures on exports from the USA).*

This criticism of the evidence provided is demeaning of the end-users concerned. The Commission issued a questionnaire to certain interested parties, who then responded in a public submission, in which they provided clear evidence of what they were saying. Rather than accept the fact that these interested parties have a higher regard for SSAB material as compared to Bisalloy material - a common theme of all of the questionnaire responses – Bisalloy claims, effectively, that the respondents are lying. There is no place for unmerited criticism of this kind in an open investigative process such as that being conducted by the Commission in this forum.

It is important to note that "Hardox In My Body" is a simple authorisation to indicate that Hardox has been used in the making of an item of OEM equipment, such as a tipper, bucket, tray or similar. "Hardox In My Body" is not a "club" nor is it a "dealership network" of any sort. If SSAB deems an application of Hardox wear plate in the design of an OEM part of one of its customers to be innovative, and to display excellence in utilising Hardox's mechanical properties, the customer will be permitted to badge the design itself, and to identify the design in the applicant's literature, as "Hardox In My Body". The benefit is the value that attaches to the fabricator's ability to associate its product with SSAB. "Hardox Wear Parts" is a similar approval and badging process. It gives the customer of the end-user an assurance that Hardox wear plate is being used in kits or for the repair of wear parts used in applications such as wear liners and quarry chutes.

The imputation in Bisalloy's letter that the Australian market questionnaire respondents to which the letter refers are SSAB "Hardox in My Body" or "Hardox Wear Parts" *dealers*, in the sense of there being some kind of *contracted network* of end users who must buy from SSAB, is false. The end users concerned can buy whatever steel plate they and their customers prefer, from whoever they prefer. They are not "tied" to SSAB in doing so. The simple fact is that they prefer SSAB's reputation, product quality, responsiveness and availability, and use "Hardox" badging for any particular part or application only if SSAB has consented thereto.

2 What have market questionnaire respondents said?

We wish to restate the important opinions expressed by the Australian market questionnaire respondents.

a Schlam

Schlam produces off-highway dump bodies, mining buckets and underground dump bodies for its customers in the mining sector.[4] The steel grade preferred by Schlam is high tech. Schlam finds the SSAB product to be lighter and tougher than anything currently available from Bisalloy. It takes Schlam less time to weld the finished product using Q&T steel plate from SSAB. The lighter and stronger steel translates to higher ore carrying capability and profitability for Schlam's mining industry customers.

b TEI Services

TEI Services Pty Ltd ("TEI") produces specialised mining equipment in the form of trommels, a kind of heavy-duty steel "barrel" that filters different sized ores.[5] The performance of the wearing material, and TEI's ability to replace worn down equipment for its customers, is important. TEI considers SSAB to be a reliable supplier, and a good global corporate citizen. TEI notes that it can source directly from SSAB AU. TEI contrasts this with its sourcing experience with Bisalloy products, where either TEI and/or distributors are "placed into a queue", meaning that TEI cannot get its large order volume requirements met in a timely way. TEI is mindful of the environmental, social and governance issues in the steel industry. TEI notes SSAB's investment in "green" steel technology so that the steel itself has a lower carbon footprint.

c Shapecut

Shapecut Pty Ltd ("Shapecut") is a profile cutter whose customers desire consistent flatness in its Q&T material.[6] Shapecut compliments the consistent flatness of SSAB material across a large range of products, particularly with respect to thinner gauge material. Shapecut says that Bisalloy representatives have themselves confirmed flatness problems in its Q&T steel plate *"primarily but not limited to thicknesses up to 12mm"*. Shapecut notes that Bisalloy has been unable to address the flatness issue *"over the last 10 plus years"*. TEI advises the Commission that certain large customers of Shapecut cannot tolerate the inconsistent flatness that is evident in Bisalloy's thinner products.

d Toomey

Toomey Earthmovers manufactures earthmoving equipment and processes Q&T steel plate for customers in the transport industry (i.e. trailer beds).[7] Toomey states that SSAB material presses into shape much easier than Bisalloy's product, to the extent that Toomey was charging an extra 20% to its customers when using Bisalloy material in bucket skin pressing jobs. According to Toomey, SSAB

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4 **[CONFIDENTIAL TEXT DELETED – commercial information related to "Hardox In My Body/"Hardox Wear Parts"]**

5 **[CONFIDENTIAL TEXT DELETED – commercial information related to "Hardox In My Body/"Hardox Wear Parts"]**

6 **[CONFIDENTIAL TEXT DELETED – commercial information related to "Hardox In My Body/"Hardox Wear Parts"]**

7 **[CONFIDENTIAL TEXT DELETED – commercial information related to "Hardox In My Body/"Hardox Wear Parts"]**

HARDOX 450 is *"hard through the complete thickness"* whereas Bisalloy 450 and Chinese 450 wear plate has proved to be *"only hard on the surface"*. Toomey advises that SSAB material is consistent in every way (thickness, flatness, hardness etc), meaning that bending programs require little to no adjustment between batches. In contrast, Bisalloy material can have *"massive variations"* between individual plates.

3 Relevance of these interested party comments

No doubt Bisalloy will claim that the factual statements made by the respondents are "untrue" or "unproven". We would disagree, as would the respondents themselves, however that is not the key point here. The information provided by these respondents are not only facts so far as they are concerned, but are also their perceptions – perceptions of customers who are experienced in the industry concerned. Those perceptions are meaningful to them and to their own customers. The relevance of the comments of Schlam, TEI, Shapecut and Toomey is that they explain why it is that SSAB material continues to be sought-after in the market at prices that are consistently higher than those of Bisalloy.

The evidence of these respondents testifies to the fact that SSAB occupies a premium position in the market – namely, that it sells a higher-priced product which is recognised for its quality and performance.

C Misleading intentions of Bisalloy

Lastly, we note Bisalloy's claim, in its 16 November letter, to this effect:

> *Bisalloy does not expect to supply the whole Australian market as Bisalloy recognises the customers' right to choose a supplier in a competitive environment from similar products. Bisalloy only seeks to compete on equitable terms in the absence of dumping creating artificial price points.*

Bisalloy's application, and its submissions in attempted support of its application, contradict this sentiment. We submit that Bisalloy does not *"recognise[ ] the customer's right to choose a supplier in a competitive environment"*.

Bisalloy's continued trade harassment of SSAB appears to be intended to eliminate or reduce SSAB's ability to compete in the Australian market, to increase Bisalloy's own prices to a level that well-exceeds the unsuppressed level arrived at by the methodology determined by the Commission, and to force up industry costs to an unjustified level.

Yours sincerely

Daniel Moulis
Partner Director

Attachment

Revised version of chart

[CONFIDENTIAL CHART DELETED]

Previous (20 July 2021) version of chart

[CONFIDENTIAL CHART DELETED]