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Director  
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## Public File

Dear Director,

### Continuation No. 638 – Bisalloy Steel Comments on SSAB Sweden Exporter Questionnaire Response

#### I. Introduction

Bisalloy Steel Pty Ltd (**Bisalloy**) refers to the recent publication of the Exporter Questionnaire Response (**EQR**) for SSAB EMEA AB (**SSAB EMEA**) in relation to the above-noted continuation inquiry (**CON 638**) and makes the following observations and comments.

#### II. Insufficient non-confidential details

Bisalloy's review of the EQR reveals that the level of non-confidential disclosure differs markedly in certain sections vis-à-vis the exporter's earlier equivalent response in Continuation inquiry no. 506 (**CON 506**). Bisalloy hesitates to speculate as to why SSAB EMEA has elected to reduce its level of disclosure to a point that may breach the legal standards of transparency, but nonetheless seeks to raise these discrepancies and differences for the Commission's consideration.

##### a) Models exported to Australia

At Section C-1.1 of the CON 638 EQR, SSAB EMEA has made confidential the details of the products exported from Sweden to Australia.<sup>1</sup> In contrast, the CON 506 EQR provides the following comprehensive table in response to the same question:<sup>2</sup>

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<sup>1</sup> SSAB EMEA CON 638 EQR, p. 28.

<sup>2</sup> SSAB EMEA CON 506 EQR, p. 21-22.

During the period, SSAB exported the following products to Australia:

<u>Product</u>	<u>Notes</u>
ARMOX 500T	Please refer to Attachment C-1 – SSAB specification sheets
ARMOX 600T	Please refer to Attachment C-1 – SSAB specification sheets
S690QL	According to EN10025 standard. Strenx 700E fulfills this same standard
STRENX 700 E	Please refer to Attachment C-1 – SSAB specification sheets
WELDOX 700 E	Functionally equivalent to Strenx 700E, previous brand name for the same product
WELDOX 700EM	Functionally equivalent to Strenx 700E, previous brand name for the same product
STRENX 700 E	Please refer to Attachment C-1 – SSAB specification sheets
HARDOX HITUF	Please refer to Attachment C-1 – SSAB specification sheets
HARDOX 400	Please refer to Attachment C-1 – SSAB specification sheets
HARDOX 450	Please refer to Attachment C-1 – SSAB specification sheets
AR 500T	Developmental wear steel 500HBW hardness
HARDOX 500	Please refer to Attachment C-1 – SSAB specification sheets
HARDOX 500 TUF	Please refer to Attachment C-1 – SSAB specification sheets
HARDOX 550	Please refer to Attachment C-1 – SSAB specification sheets
	AR 600
	Developmental wear steel material with 500HBW hardness
	HARDOX 600
	Please refer to Attachment C-1 – SSAB specification sheets
	HARDOX EXTREME
	Please refer to Attachment C-1 – SSAB specification sheets

Table excerpt: SSAB EMEA CON 506 EQR

## b) Other direct selling expenses

In response to the question on whether any other direct selling expenses were incurred by SSAB EMEA for the domestic sales of like goods, the exporter noted in its CON 638 response that there were no other direct selling costs, and only indirect SG&A.<sup>3</sup> In CON 506, SSAB EMEA disclosed that *SG&A for domestic sales has been calculated in the amount of [CONFIDENTIAL TEXT DELETED – number].*<sup>4</sup>

This apparent difference in the treatment of other direct selling costs between continuation inquiries causes Bisalloy to query whether the exporter has changed the way it classifies and reconciles direct selling expenses. Bisalloy therefore requests that the Commission investigate any differences, as relevant to ordinary course of trade assessments.

## a) Cost accounting practices

Question G-2.5 of the CON 638 EQR requests a response on the level of product specificity to which the exporter's cost accounting system normally records production costs. SSAB EMEA's response in the current inquiry was made completely confidential.<sup>5</sup> In response to the same question in CON 506, the exporter states that *...SSAB's standard cost system allocates costs to different steel grade products and thickness levels. This level is equivalent to level MCC4.*<sup>6</sup>

Similarly, SSAB EMEA's response to G-2.8 in CON 638 is to fully redact the cost accounting practice details regarding methods of valuation for raw materials, work-in-progress and finished goods inventories.<sup>7</sup> In contrast, the response in CON 506 was that *...Raw materials are valued on a weighted average basis. Both WIP and finished goods inventories are valued on a FIFO basis.*

Bisalloy questions why SSAB EMEA has elected to not disclose in the current inquiry what would be considered generally accepted cost accounting methodologies, but did so earlier. Certainly, such disclosure would not be considered commercially sensitive. If, on the other hand, cost accounting methodologies have changed to such a degree that warrants non-disclosure, then the current responses are not of sufficient detail to permit a reasonable understanding of the substance of the information provided.<sup>8</sup>

## III. Export price assessment

In CON 506, the Commission determined that SSAB EMEA's export sales price to SSAB Swedish Steel Pty Ltd (**SSAB AU**) was influenced by a commercial or other relationship, on the basis that:

- SSAB AU was ultimately wholly owned by SSAB EMEA;
- SSAB EMEA was the exclusive supplier of the goods to SSAB AU; and
- prices between SSAB EMEA and SSAB AU were determined according to the SSAB group's internal pricing guidelines.<sup>9</sup>

For these sales, the Commission calculated the export price under section 269TAB(1)(c)<sup>10</sup> having regard to all circumstances of the exportation. Specifically, due to the non-arms length nature of the transactions between SSAB EMEA and SSAB AU, the Commission calculated export prices based on the price at which the goods were sold by SSAB AU and made the following deductions to calculate export prices at the FOB level:<sup>11</sup>

- Australian delivery expenses;
- Australian warehousing costs;

<sup>3</sup> SSAB EMEA CON 638 EQR, p. 42.

<sup>4</sup> SSAB EMEA CON 506 EQR, p. 30.

<sup>5</sup> SSAB EMEA CON 638 EQR, p. 47.

<sup>6</sup> SSAB EMEA CON 506 EQR, p. 34.

<sup>7</sup> SSAB EMEA CON 638 EQR, p. 428

<sup>8</sup> As is the statutory requirement under Section 269ZJ of the *Customs Act 1901*.

<sup>9</sup> REP 506, p. 30.

<sup>10</sup> Legislative references are references to the *Customs Act 1901*, unless otherwise specified.

<sup>11</sup> REP 506, p. 31.

- other SG&A expenses incurred in Australia;
- an amount for importer profit;
- importation costs;
- interim dumping duties;
- customs duty; and
- the cost of ocean freight and marine insurance.

The CON 638 EQR notes that current internal pricing arrangements with SSAB AU continue to be governed by the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*. In the current inquiry therefore, the Commission should continue to find that SSAB group's internal pricing guidelines translate to Australian export sales that are not arms-length and determine prices on a deductive basis.

#### **IV. Other perplexing representations**

SSAB EMEA states at I-1-1(i) of the EQR that:<sup>12</sup>

*It seems to be the case that Bisalloy's traditional distribution network has diversified its sourcing and is now selling Chinese and Belgian Q&T steel side-by-side with Bisalloy product. SSAB believes that this has caused price confusion for Bisalloy. Bisalloy likely aspires to achieve the prices SSAB maintains but is being held-back by commodity level price competition both with, and in, its own distribution network.*

Surely the exporter appreciates the economic and commercial realities of selling steel products via a distribution network, where there exists a multitude of goods with different manufactured origins, and where pricing is set within these known and fully understood parameters? Perhaps the exporter has suffered such price confusion elsewhere, but for Bisalloy and the Australian market, this is certainly not the case.

At I-3(12) SSAB EMEA states that Bisalloy is routinely and significantly cheaper than SSAB and that in no case has it been suggested that SSAB's prices are lower than Bisalloy's.<sup>13</sup> On the contrary, and to correct the record on this point, Bisalloy has provided evidence to the Commission in the current inquiry that the exporter's prices are lower. This will be assessed by the Commission throughout the course of the continuation inquiry.

#### **V. End users**

The Commission will recall from CON 506 the many end-user submissions received, in summary arguing that the quality of Bisalloy's Q&T steel plate rendered the goods non-substitutable with imports of Q&T steel plate (primarily with respect to SSAB), or that Bisalloy's Q&T steel plate be considered substitutable only for certain applications.

In its submission dated 28 June 2019,<sup>14</sup> Bisalloy brought to the attention of the Commission the "Anti-Dumping Communication – customer letter" provided to SSAB AU's Australian customers, indicating that the end-user submissions all carried a similar theme as guided by this customer communication document.

Bisalloy responded to these end-user claims, reaffirming its position that it supplies quality Q&T steel plate that competes directly with that of imports from Finland, Japan and Sweden.

In CON 506, the Commission was ultimately satisfied that the goods were substitutable and that Bisalloy and SSAB AU generally have a high degree of common customers who purchase the same models from both companies.<sup>15</sup> The Commission also remarked that that most end users who claimed that Bisalloy's Q&T steel plate was not substitutable did not purchase from Bisalloy during the CON 506 inquiry period.<sup>16</sup>

<sup>12</sup> SSAB EMEA CON 638 EQR, p. 28.

<sup>13</sup> *Ibid.*, p. 75.

<sup>14</sup> CON 506, EPR folio no. 45.

<sup>15</sup> REP 506, p. 14-15.

<sup>16</sup> *Ibid.*

On the basis that there has been little deviation in the fundamentals of the Australian Q&T steel market, Bisalloy submits that there is no reason for the Commission to not reach the same above conclusions in the current inquiry.

If you have any questions concerning this submission, please don't hesitate to contact Bisalloy's representative Mr Chad Uphill on +61 (2) 412 377 603.

Yours sincerely,

Carl Bowdler  
Chief Financial Officer