

To the Australian Anti-Dumping Commission

Australian Government, Department of Industry, Science and Resources

Case: Continuation inquiry No 683: 'Anti-dumping investigation on imports of quenched and tempered (Q&T) steel plate originating in or exported from Finland, Japan and Sweden'

Dear Acting Anti-Dumping commissioner, Madame Isolde Lueckenhausen

SSAB would like to respectfully request to continue the dialogue with the Australian Anti-Dumping Commission concerning the anti-dumping measures imposed on flat rolled products of alloyed steel plate, known as Q&T steel plate, from Finland and Sweden.

The measures have been in force since 5th November 2014, and it is SSAB's view that these duties should be suspended. SSAB has increased its prices steadily and significantly, from a base advised by the Commission to be non-injurious, and the Australian domestic market has not taken any harm as a consequence of SSAB's prices. SSAB hosted the Australian Anti-Dumping Commission in Sweden, at our site in Oxelösund and at our HQ in Stockholm, in March 2024, and has dutifully co-operated and answered all questionnaires and other information requested.

The EU Commission Directorate-General for Trade shares the view that the criteria to prolong these antidumping measures (which have been in place since 2014) for another five years are not met, and has submitted accordingly in a submission to the Australian Anti-Dumping Commission, dated 9 January 2024 (see attachment) the following:

- The application was not compliant with WTO rules and jurisprudence
- The applicant's claims for confidentiality are excessive, thus depriving the parties of their rights of defence
- There was no evidence in the application that imports from Finland and Sweden were being dumped or would be dumped in the future
- The application did not contain any information regarding relevant economic factors describing the situation of the domestic industry
- Measures have been effective; EU imports have decreased; and the situation of the domestic AUS industry has improved.
- Based on information publicly available, the situation of the domestic industry appears to be good and thus injury is unlikely to recur if measures are allowed to lapse

We would be very grateful for taking these matters into consideration in your Statement of Essential Facts report. We remain at your disposal for any further clarification that might be needed.

Kind regards,

Jesper Kansbod
Head of Group Governmental relations
Jesper.kansbod@ssab.com
+46 702 680 235

Kimmo Järvinen
Head of EU/Finland Governmental Affairs
Kimmo.jarvinen@ssab.com
+32 472 69 59 06

ANNEX I:

BACKGROUND

1. The Australian Anti-Dumping Commission (the “Commission”) is an agency under the direction of the Australian Minister for Industry, Science and Technology. The stated purpose of the Commission is to remedy unfair international trade.

- o The Commission investigates claims that dumped imports have injured Australian industry.

- o Dumping is generally considered to occur when a company exports a product to an export market at a price that is lower than the price charged by the company in its home market, and that causes harm (“material injury”) to Australian industry.

2. On 5 November 2014, following a claim that dumping had occurred, the Commission imposed anti-dumping measures on flat rolled products of alloyed steel plate, known as Q&T steel plate, from Finland, Japan and Sweden. The measures were extended for a further five years on 5 November 2019.

3. SSAB group’s steelmaking facilities in Finland and Sweden, SSAB Raabe and SSAB Oxelosund respectively, have been subject to the anti-dumping measures concerned since 5 November 2014.

4. Following an application by the domestic industry, the Commission initiated on 4 December 2023 another continuation enquiry – a second expiry review - into these measures. SSAB is currently under investigation from the Commission as to whether there is a probability that future exports to Australia will be dumped and whether that will cause material injury to “continue” or to “recur”.

SITUATION

5. When the measures were first imposed during the first period, the dumping margin with respect to SSAB’s exports from Sweden, being the predominant source country, was found to be 34%. The effective rate of duty imposed by the Commission, based on the application of a so called “lesser duty rule”, was 9.6%. Five years later, on the occasion of the first continuation inquiry, SSAB had increased its prices and had consistently paid dumping duties at the 9.6% rate.

6. In its first continuation inquiry in 2019, the Commission found the Australian industry was profitable, that its domestic sales volume was at its highest in six years, and that the market share of Swedish imports had decreased since 2016. It also found that imports from Sweden “competed” with the domestic industry (however, see point 7 below). Despite these findings, which would seem to indicate that the domestic industry was not being harmed by Swedish imports, the Commission chose to continue the measures.

7. Q&T steel plate, which is subject to the anti-dumping measures, is a specialised steel product. SSAB is not aware of dumping duties being specifically applicable to this specialised steel product in any other country. Further, SSAB’s steel products are of the highest quality in terms of their strength, hardness, and workability. They command a price premium in the markets in which

they are sold, and Australia is no different. A price comparison between SSAB's steel and the lower priced steel that is produced by the domestic industry and the Australian industry's direct competitors cannot establish that SSAB's steel causes injury to the Australian industry.

8. One of the grounds advanced by the Australian industry for the continuation inquiry is that there are presently a lot of anti-dumping measures imposed by WTO Members against Q&T steel plates globally. This argument is not relevant however, since these measures capture Q&T steel plate only by way of definition, being primarily concerned with generic hot-rolled steel plate, and because none of those measures have been imposed against SSAB.

9. As the Commission has discovered, time and time again, in the data provided by SSAB and in the Commission's data verification, Q&T steel plate prices in Sweden are very high. In that scenario, lower export prices to external markets that experience lower prices than in-Sweden are no surprise. The issue here is that SSAB has ensured, to the best of its ability and awareness, to maximise its prices and not to cause harm to the Australian industry in the Australian market conditions. The Commission accepted that a comparison of prices at the origin of SSAB's supply chain in Sweden should not govern the severity of the price measure. Rather it was accepted that a non-injurious price measure was appropriate.

10. Indeed, SSAB has received 100% refunds of duty paid in each and every one of the last five duty assessment applications (i.e. during the second period of measures) it has made to the Commission. Thus, none of SSAB's exports to Australia over a continuous 2.5 year period of themselves give any basis for a prima facie finding of the probable likelihood of material harm to the Australian industry recurring in the future. If anything, the 100% refunds are indicative of non-harmful sales behavior on SSAB's part, a relevant fact that the Commission should take into account but fails to mention.

11. In its essential facts statement and final report in the first continuation inquiry (i.e., the report that initiated the second period of measures), the Commission advised of the unsuppressed price level that the Australian industry could achieve in the Australian market. From that time SSAB AU has always exceeded that price level and has graduated its prices upwards from that level during the four years since it was advised. SSAB believed that to be the purpose of that advice and it has been helpful to SSAB in having an idea of how much its prices should be maximised since then.

12. It can also be noted that since the measures were imposed against SSAB Sweden we have encountered allegations of circumvention of duties and of injurious dumping from our SSAB plant in the US, which were found unsubstantiated.

HIGH LEVEL INTEREST AND CONCERN

13. On 9 January 2024, the EU commission made a submission to the Australian Minister for Industry, Science and Technology. In the submission, the EU commission argued that the enquiry should be dropped without the continuation of measures, while submitting that any other course of action would be in breach of WTO rules and well-established jurisprudence. In particular, the EU commission submitted amongst other things that:

a) The application that has been made for a continuation inquiry is not compliant with WTO rules and jurisprudence.

- b) The measures taken have been effective, EU imports have decreased and the situation of the domestic industry has improved.
- c) No evidence was presented that imports from Finland and Sweden are being dumped or would be dumped in the future.
- d) The application did not contain any information regarding relevant economic factors describing the situation of the domestic industry.
- e) Based on publicly available information, the situation of the domestic industry appears to be good and thus injury is unlikely to recur if the measures are dropped.

HARM CAUSED TO SSAB

14. These investigations and inquiries and the measures taken cause costs, trade disruption and reputational harm for SSAB and for Swedish industry generally, all of which are unjustified.

15. SSAB is a good corporate citizen, totally focused on legal compliance in all the markets in which it operates. SSAB has a very strong social and environmental conscience, being one of the most advanced steelmakers in the world. SSAB's SSAB Zero™ is made of recycled steel and produced with fossil-free electricity and biogas, resulting in virtually no fossil carbon emissions. Our SSAB Fossil-free™ steel is produced using HYBRIT® technology, with direct reduction of iron ore using fossil-free hydrogen that emits water instead of CO₂.