EUROPEAN COMMISSION
Directorate-General for Trade

Directorate G - Trade Defence
**Investigations IV. Relations with third Countries for Trade Defence Matters**

NON-CONFIDENTIAL

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# ANTI-DUMPING INVESTIGATION ON IMPORTS OF QUENCHED AND TEMPERED (Q&T) STEEL PLATE ORIGINATING IN OR EXPORTED FROM FINLAND, JAPAN AND SWEDEN

## Submission by the European Commission on the Statement of Essential Facts (No 683)

On 5 July 2024, the Australian Anti-Dumping Commission (ADC) issued the Statement of Essential Facts (SEF) with regard to a second expiry review investigation of anti—dumping measures on imports of quenched and tempered (Q&T) steel plate from Finland, Japan and Sweden.

The European Commission ('the Commission') would like to thank the Australian authorities for the opportunity to present its comments in the framework of the above-mentioned proceeding. These comments are without prejudice to further interventions at further stages of the procedure.

Following the analysis of the information provided in the SEF No 683 the Commission would like to reiterate the following issues which are considered not to be adequately addressed:

### I. CONFIDENTIAL INFORMATION

As stated during the previous proceedings in this and other cases, according to Article 11.4 of the WTO Anti-dumping Agreement ('ADA') *"the provisions of Article 6 regarding **evidence and procedure** shall apply to any review carried out under this Article [...]"*

In this case, the information provided in the SEF No 683 remains **insufficient** to allow the parties to have a proper understanding of all the elements at stake and thus to be in a position to properly exercise their rights of defence as required by Article 6.2 of the WTO ADA.

While some data relating to the situation of the domestic industry (output, productivity, stocks, investments, impact on cash flow, employment, capacity utilization) are presented in index form, for others the level of disclosure is still considered to be inadequate. The highest level of detail is illustrated with some graphs (import volume, market share, unit price/unit CTMS, profit/profitability, etc.) where the yearly trend is shown but no indication of magnitude is given since the graphs are note scaled.

As noted in our previous submission of 9 January 2023, it is understandable that ADC is taking this approach presumably because there is only one applicant in this case (and the only

producer in Australia), however by overly protecting the confidentiality rights of the domestic industry, the ADC is impairing the rights of defence of interested parties.

Finally, according to Article 6.5.1 of the WTO ADA, where, as in the present case, confidentiality of certain data is an issue, the parties should **explain why**, but in any case, should provide summaries that are *in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence* only *in exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.*

In view of the above, it is considered that the investigating authority has failed to comply with its obligations under Article 6.5.1 of the WTO ADA, since no statements of the reasons why summarisation is exceptionally not possible were provided.

## II. LIKELIHOOD OF RECURRENCE OF DUMPING AND INJURY

### *i. Likely import volumes and prices*

The SEF No 683 indicates that imports from Japan and Sweden have continued after the imposition and extension of measures, albeit to a certain extent in lower volumes (Figure 7: Import volumes from the subject countries, Confidential Attachment 6).

The estimation of the data in Figure 7 shows that **imports from the EU have decreased** by about three times since the last extension of measures in 2019, and by roughly five times since 2011. At the same time, the SEF also shows that **imports from China have been increasing** since 2015 (Figure 8: Proportion of total import volume of Q&T steel plate, Confidential Attachment 6).

With regard to import prices, the ADC notes that the price of imports, as well as that of the Australian industry **increased by more than 50%** since the measures were extended in 2019. In addition, it shows that the selling price of EU imports and Bisalloy were *"broadly comparable with prices clustered within 4%".* Nevertheless, it fails to specify **that SSAB's prices were higher than those of Bisalloy** (Figure 9: Aggregate price comparison between Bisalloy and SSAB AU during the inquiry period).

On the basis of this evidence, it appears that the duties have been effective, as EU imports have decreased rather significantly and do not appear to be undercutting the domestic prices.

### *ii. Situation of the domestic industry*

According to SEF No 683 it appears that the measures have certainly been effective, as imports have decreased significantly, and the situation of the domestic industry improved considerably.

An examination of the relevant economic factors shows that there is very little evidence of injury to the domestic producer and demonstrates rather positive developments during the injury investigation period (FY 2019-FY 2023).

The majority of the economic factors assessed in Table 7 (Other economic factors for Bisalloy) **improved**, namely cash flow (+20 index points), value of assets (+57 index points), capital investments (+52 index points), revenue (+64 index points), return on sales (+538 index points), productivity (+13 index points), and wages (+33 index points) **improved during the investigation period.**

Furthermore, Table 13 (Changes or variations in sales volumes between Inquiry 506 and the current inquiry (Inquiry 638)) supports the fact that Bisalloy's sales have not declined since 2019. SSAB sales, on the other hand, have decreased by 7 index points, while imports from other suppliers increased its sales on the Australian market by 29 index points.

The ADC further confirms that the increased volume of imports from China, the increased market share of imports from China with historically the lowest prices on the Australian market **are the likely source of any injury to the Australian industry**. It is surprising that the focus remains on extending the duties on EU imports rather than assessing the link with the increasing imports from China, which represent about four times the import volume and market share of SSAB. In particular, any price pressure is certainly exercised by imports from China, given their high market share and low prices.

In this context, it is recalled that article 9.2 of the WTO ADA provides "*When an anti-dumping duty is imposed in respect of any product, such anti-dumping duty shall be collected in the appropriate amounts in each case, on* ***a non-discriminatory basis*** *on imports of such product from all sources found to be dumped and causing injury, except as to imports from those sources from which price undertakings under the terms of this Agreement have been accepted."* […]

Therefore, in order to provide an effective remedy, the imports from China and their impact on the situation of the domestic industry would need to be investigated.

## III. CONCLUSION

As seen above, the criteria to prolong these antidumping measures, (which have been in place since 2014) for another five years do not seem to be met, in particular:

- The information provided in the SEF No 683 remains **insufficient**, depriving the parties of their rights of defence;

- Measures have been effective; **EU imports have decreased**, and the situation of the domestic industry has improved; the domestic industry's situation shows a **positive development** in many injury factors and profitability at the end of the period;

- Other factors, such as the evolution of the costs or the prices of other imports which are increasing their market share, have not been analysed.

Therefore, this review investigation should be terminated without the continuation of measures.

The Commission trusts that the investigating authority will thoroughly examine the points raised above and refrain from extending measures, if not warranted, in full compliance with WTO rules and obligations.