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commercial + international

25 July 2024

The Director
Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra
Australian Capital Territory 2601

By email

Dear Director

SSAB – quenched and tempered steel plate from Finland and Sweden Submission in response to Statement of Essential Facts

Reference is made to Statement of Essential Facts 638 (“SEF 638”) and the right of our client SSAB to provide a submission in response to that Statement to which the Commissioner must have regard under Section 269TEA(3)(a)(iv) of the *Customs Act 1901*.

1 Recurrence of material injury by way of dumped imports from the subject countries Sweden and Finland is improbable

SSAB’s exportation and sales behaviour in response to the measures imposed against its exports from Finland and Sweden has been exemplary. This has not been merely coincidental or accidental. SSAB has taken note of the operation, implications and objectives of Australia’s anti-dumping system, and has adapted its behaviour in line with those objectives.

Over the past five years SSAB has done its best to abide by and comply with the Australian Government’s intention to obviate dumping injury to the Australian industry that processes greenfeed steel into quenched and tempered steel plate. The essential facts that have been placed before the Commission demonstrate that SSAB’s efforts have been successful, to the extent of significant overcompensation. Any alleged pricing injury has not only been “obviated”. It has been “obliterated”.

In so doing, SSAB expected that its *bona fides* would be recognised. It expected that the cash costs, the transactional costs, the interest costs, and the time costs incurred in depositing millions of dollars of dumping duties with the Australian Government, and then trying to get it back through the available procedures, which can take over two years from time of first payment for Australian Border Force to refund, would be ended.

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The steps SSAB has taken to ensure dumping will not cause injury, in the circumstances of competition within the Australian market, have been presented to the Commission in this inquiry. SSAB has provided substantial, direct evidence of the market conditions that have emerged behind the trade barrier that applies to Finnish and Swedish imports only, and to no others. As plainly evidenced in this inquiry, SSAB has implemented these “bright lines” in its exportation and sales behaviour.

- (a) Rigid adherence to a strategy **[CONFIDENTIAL TEXT DELETED – pricing information]** that recognises the premium status of SSAB’s quenched and tempered steel plate and **[CONFIDENTIAL TEXT DELETED – pricing information]**.
- (b) Ending of exports found to have been dumped ten years ago from the subject country Finland.
- (c) Minimisation of export volumes found to have been dumped from the subject country Sweden.
- (d) Substitution of exports from those two subject countries by exports from the US which is a non-subject country.
- (e) **[CONFIDENTIAL TEXT DELETED – pricing information]** SSAB Q&T steel plate in the Australian market on an origin-agnostic basis.
- (f) Introduction of rigid monthly internal price guidance **[CONFIDENTIAL TEXT DELETED – pricing information]** to the best of SSAB’s market knowledge.
- (g) Compliance with rigid monthly internal price guidance, to prevent **[CONFIDENTIAL TEXT DELETED – pricing information]** prices offered by the Australian industry.

In parallel with SSAB’s non-injurious behaviour:

- imports from non-subject countries have increased;
- imports from non-subject countries (apart from SSAB’s imports from the US) have undercut the Australian industry’s prices in significant amounts and SSAB’s premium prices in extraordinary amounts; and
- the Australian industry’s profits have reached supernumerary levels.

SSAB rejects the preliminary recommendation, voiced by the Commission in SEF 638, to continue the measures against exports of Q&T steel plate from Sweden. The market readjustment that the dumping measures were intended to achieve was accomplished long ago, to Bisalloy’s benefit.

The Commission’s belief that expiry of the measures would lead to SSAB increasing the volume of its exports from Sweden and Finland to Australia and decreasing its prices in the Australian market, such as would cause material injury to the Australian industry, defies logic and commercial sense. Such practices would be commercially unnecessary and contrary to the evidence of SSAB’s behaviours as we have explained them above.

2 Further information about pricing and non-subject country imports in the Australian market

The following information which is attached forms part of this submission:

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- (a) SSAB AU C-2 listing – Forward order information. **[CONFIDENTIAL ATTACHMENT]**
- (b) SSAB AU - Forward order **[CONFIDENTIAL TEXT DELETED – nature of commercial information presented]**. **[CONFIDENTIAL ATTACHMENT]**
- (c) Further comparative pricing example A; Further comparative pricing example B; and Further comparative pricing (and volume) example C. **[CONFIDENTIAL ATTACHMENT]**

3 If the recommendation to continue the measures proceeds, the *ad valorem* duty method should be preferred ahead of the combination method

In SEF 638 the Commission expresses the preliminary view that it is appropriate to continue with the combination duty method for the goods exported from Sweden and Finland.

SSAB submits that it would not be appropriate to continue with the combination method. Instead, it would be appropriate to replace the combination method with the *ad valorem* method at the rate of 8.6%.

SSAB advances the following justifications for this approach.

- (a) SEF 638 advises that the Australian industry's USP has been "indexed" to the increase in costs and profits since the last USP. This locks-in the high profitability that the Australian industry has achieved since then. It is an extension of the unsuppressed number from the last continuation inquiry, increased by higher actual costs and higher actual profits. Because the previous USP was about the same as SSAB's average Australian market price in the last continuation inquiry, the increase in the USP proposed in this inquiry preserves and protects the Australian industry against subject country imports at much higher levels than before. The USP allows the Australian industry a higher profitability than that which was accepted the last time as being a profit that it should expect in a market unaffected by dumping. This signals that the market is operating well, both generally and in terms of price graduation across the range.
- (b) The market is open to, has experienced, and will continue to experience, high volume/lower priced competition from non-subject countries. A form of duty that would penalise one exporter (SSAB) in a market downturn, while other lower priced and increasingly injurious imports were not similarly penalised, and were under no such restraint, would be unfair to SSAB. Should market prices drop SSAB will face increasingly higher variable duties as well as continuing to pay the significant fixed duty. We submit that this would be unnecessary and uncalled for. **[CONFIDENTIAL TEXT DELETED – pricing information]**. The importers and distributors of products not subject to dumping duty will be unrestrained in their ability to follow market prices down, should that occur. If overall market prices were to reduce significantly then variable duties would operate as a market ban on subject country imports. This is neither an appropriate nor fair outcome for a legitimate market participant such as SSAB, **[CONFIDENTIAL TEXT DELETED – pricing information]**.
- (c) The Australian industry has not requested a review of the level of the measures in the 10 years over which they have been in place. That signals that it has been satisfied with the way in which SSAB has responded to the Commission's intention to ensure subject country prices in the market are not injurious. SSAB is a highly trustworthy corporate entity selling high quality products to discerning customers at market-high prices. There is no reason to believe that

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SSAB would disrupt the equilibrium of the market, therefore there is no need to adopt a method of collecting duty that could exclude two European export countries but not other countries.

- (d) AUD-SEK forecasts over the next 18 months suggest that the AUD to SEK exchange rate will exhibit moderate fluctuations with a general upward trend. Starting at approximately 7.07 in July 2024, the exchange rate is expected to be around 7.30 by the end of 2025.¹ **[CONFIDENTIAL TEXT DELETED – foreign exchange information]**. Again, this would be an unfair outcome for SSAB when importers of Q&T steel plate from non-subject countries would actually be advantaged by an increase in the buying power of the AUD.
- (e) We note the following passage from the Commission’s final report in the recent railway wheels continuation inquiry:

The combination duty method is considered appropriate where circumvention behaviour is likely (particularly because of related party dealings), where complex company structures exist between related parties, and where there has been a proven case of price manipulation in the market. Conversely, the combination duty method is less suitable in circumstances where there are many model types of the goods with a wide price range or where a falling market exists.²

With respect to the enumerated factors, as applied to SSAB’s situation, we make these comments:

- (i) Circumvention behaviour is unlikely. SSAB’s open and comprehensive engagement with the Commission in inquiries, investigations and duty assessments should easily establish that in the mind of the Commission. There are no complex corporate structures with respect to SSAB EMEA’s sales to SSAB AU. What happens is that SSAB EMEA sells to SSAB AU. That’s all.
- (ii) There has been no case of price manipulation in the market by SSAB, proven or otherwise.
- (iii) There are many model types of Q&T steel plate and they have a wide price range.

SSAB retains the view that the measures should be allowed to expire. Nonetheless, if that is not the recommendation of the Commission, and in consideration of the abovementioned matters, SSAB submits that the *ad valorem* method of collecting duties would be entirely sufficient and more appropriate than the combination method.

4 Concern about pejorative assumption levelled against SSAB

[CONFIDENTIAL TEXT DELETED – confidential submissions regarding certain wording of SEF 638] Such practices are alien to SSAB’s values and corporate identity:

¹ Source: [EFA Forecast](#), [30 Rates](#), [Walletinvestor.com](#).

² See [Report No 632 - Inquiry Into the Continuation of Anti-Dumping Measures on Certain Railway Wheels Exported to Australia from the People’s Republic of China and the French Republic](#) (12 June 2024), pages 83 and 84.

Do what is right.

We show each other respect.

We act with integrity.

SSAB counts the company's reputation and brands among our most valuable assets.³

[CONFIDENTIAL TEXT DELETED – confidential submissions regarding certain wording of SEF 638]

Yours sincerely



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