



ADRP Conference Summary

Review No. 171 – Quenched and Tempered Steel Plate

Panel Member	Leora Blumberg
Review type	Review of Minister's decision
Date	Wednesday 19 February 2025
Participants	SSAB EMEA AB & SSAB Swedish Steel Pty Ltd (the Applicants): Represented by Daniel Moulis and Emily Schilling of Moulis Legal (the Applicants' Legal Representative)
Time opened	10:30am AEDT
Time closed	11:23am AEDT

Purpose

The purpose of this conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (Review Panel) concerning Quenched and Tempered Steel Plate exported from Sweden.

The conference was held pursuant to section 269ZZHA(1) of the *Customs Act 1901* (the Act).

In the course of the conference, I was able to ask parties to clarify any argument, claim or specific detail contained in their application or submission. The conference was not a formal hearing of the review, and was not an opportunity for parties to argue their case before me.

In accordance with section 269ZZHA(2), in making a recommendation under subsection 269ZZK(1), I may have regard to:

- (a) further information provided at this conference to the extent that it relates to “relevant information” within the meaning of section 269ZZK(6) of the Act;
- (b) any conclusions reached at this conference based on “that relevant information”.

At the time of the conference, I advised the participant:

- That the conference was being recorded and transcribed by Loghic Events, and that the recording would capture everything said during the conference.
- That the conference was being recorded for the Review Panel to have regard to when preparing a conference summary. The conference summary would then be published on the Review Panel's website.
- Any confidential information discussed during the conference would be redacted from



the conference summary prior to publication.

Prior to the conference, participants were provided with a copy of the Review Panel's Privacy Statement. The Privacy Statement outlines who the conference recording and transcript may be disclosed to. The Privacy Statement is available on the Review Panel's website [here](#). The participant indicated that they understood the Privacy Statement and consented to:

- The recording of the conference; and
- The recording being dealt with as set out in the Privacy Statement.

Further information requested and provided

It should be noted that the further information requested (FIR) from the Applicants prior to the conference, is set out in black ink below and is numbered in accordance with the FIR document so provided to the Applicants. The Applicants' responses to the FIR are set out below each such request in *purple ink italics*. In many instances reference is made to the Applicants' written response provided after the conference and attached as Addendum 1 to this conference summary.

Where additional further information was sought or further clarification was requested during the conference, that was not part of the FIR document provided prior to the conference, this is indicated in **bold black ink**. The Applicants' responses to these additional further information requests or clarifications during the conference are set out below those additional further requests in **bold purple ink italics**. In instances where the Applicants have incorporated the responses to these additional further requests or clarifications into the written response, reference is made to the Applicants' written response (Addendum 1) incorporating the response to the additional further information sought or clarification requested during the conference.

The specific information that the Review Panel sought in this conference, and that was provided by the Applicants, is as follows:

1. It is noted that there is no written explanation in the Applicants' submission to the ADC dated 25 July 2024, in response to SEF 638 ("the 25 July 2024 SEF Response"), of the three attachments listed under Paragraph 2 ("the Relevant Attachments"),¹ other than that they are listed under the sub-heading, "Further

¹ The Relevant Attachments listed are:



information about pricing and non-subject country imports in the Australian market” (Paragraph 2), and stated as being information which forms part of the submission.

See the Applicants’ response to the above introductory statement of Request 1 in the Applicants’ written responses to the further information sought, attached as Addendum 1.

During the conference, the Reviewing Member sought further clarification as to whether Attachment A, that was referred to in the Applicants’ response to the introductory statement of Request 1 (and attached to the written response), was a document that was previously before the ADC.²

See the Applicants’ response to the above introductory statement of Request 1 in the Applicants’ written responses to the further information sought, attached as Addendum 1, which includes the Applicants’ response to the above further clarification sought during the conference.

It is noted further that, in the application for review, the Applicants provide further explanation and set out arguments based on the Relevant Attachments in support of Ground 1 relating to the ADC’s undercutting analysis in REP 638.³ Please could the Applicants clarify the following in this regard:

- (a) Why the wear plate findings were considered to be “counter-intuitive from SSAB’s perspective” because “a great many of the wear plate sales *invoiced during the inquiry period* to certain customers had been *ordered and contracted by them before the inquiry period*”. See application for review, page 5.

See the Applicants’ response to Request 1(a) in the Applicants’ written response to the further information sought, attached as Addendum 1.

During the conference the Reviewing Member sought further

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- (a) SSAB AU C-2 listing – Forward order information. [This would appear to be Confidential Attachment C28 in Schedule 2 of the application for review]
(b) SSAB AU - Forward order 13 POs compiled. [This would appear to be Confidential Attachment C27 in Schedule 2 of the application for review]
(c) Further comparative pricing example A; Further comparative pricing example B; and Further comparative pricing (and volume) example C. [This would appear to be Confidential Attachment C29 in Schedule 2 of the application for review]

² Attachment A (attached to the written response) is a confidential spreadsheet, which is summarised at page 2 of Addendum 1 and is not annexed to the public summary.

³ See application for review, pages 5 – 7.



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clarification as to the date used for the purpose of the export price in the ADC's dumping calculation, and whether it was invoice date, date of contract, or other.

See the Applicants response to Request 1(a) in the Applicant's written response to the further information sought, attached as Addendum 1, which includes the Applicants' response to the further clarification sought during the conference.

Following the Applicants' response to the above further clarification request during the conference, the Reviewing Member clarified that the Review Panel was not seeking information on the dumping calculation but rather was seeking clarification on the data collected for transactions falling in the basket of transactions in the inquiry period, that were included in the C-2 spreadsheet that was referred to.

- (b) How the relevant purchase orders that were collected and the added columns (to the C-2 Sales spreadsheet) for "Customer PO #", "Date of order", and "Date of Arrival into [name of port]", and the fact that they were all dated prior to the inquiry period, supported the Applicants' Ground 1 challenging the ADC's price undercutting analysis findings in REP 638. See application for review, pages 5 - 6.

See the Applicants' response to Request 1(b) in the Applicants' written response to the further information sought, attached as Addendum 1.

During the conference, the Reviewing Member sought further clarification, following up on the previous clarification, as to whether the 'pre-inquiry' sales were part of the transactions included for purposes of the dumping calculation (the comparison between normal value and export price), that is, part of the data that was collected for the investigation.

See the Applicants response to Request 1(b) in the Applicants' written response to the further information sought, attached as Addendum 1, which includes the Applicants' response to the further clarification sought during the conference.

- (c) Why the Applicants consider that "a prolonged period over which goods



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exported to Australia by SSAB EMEA are stored in warehouses” that the Applicants submit was recognised by the ADC for the export price determination, should be relevant to the price undercutting analysis. See application for review, page 6.

See the Applicants’ response to Request 1(c) in the Applicants’ written response to the further information sought, attached as Addendum 1.

- (d) How the “time between order contract and domestic invoicing of the sales”, the “supply chain disruption” and “substantial and immediate price increases of mill orders” resulting from the Russia-Ukraine conflict, may have caused the “appearance of price undercutting” in Attachment 12. See application for review, page 7.

See the Applicants’ response to Request 1(d) in the Applicants’ written response to the further information sought, attached as Addendum 1.

During the conference, the Reviewing Member sought further clarification as to whether the issue was about the timing for the price undercutting comparison, that is, whether the error alleged was that certain SSAB transactions should have been excluded (because they were pre-inquiry period sales) or that they should have been aligned with similarly timed Bisalloy transactions.

See the Applicants’ response to Request 1(d) in the Applicants’ written response to the further information sought, attached as Addendum 1, which includes the Applicants’ response to the further clarification sought during the conference.

2. During the Conference held on 24 January 2025 (“the January 2025 Conference”), the ADC confirmed that the comparison of prices in respect of the transactions in both Bisalloy and SSAB AU’s sales listings for the price undercutting analysis, were based on invoice date. The ADC further clarified that the comparison was between: (i) sales from SSAB AU to its non-related customers in Australia (not export sales transactions between SSAB AU and SSAB EMEA); and (ii) Bisalloy’s sales to its customers in Australia.⁴

⁴ See ADC’s response to Request 1(a) during the January 2025 Conference, set out in the ADC’s written responses, being Annexure A to the January 2025 Conference Summary, pages 1 – 2.



Please indicate if the Applicants contend that the comparison for the price undercutting analysis should have focused on different transaction dates for either SSAB AU or Bisalloy, and if so, the reasons therefore, with reference to the following statement from the Dumping and Subsidy Manual - December 2021 (“the Manual”):

The Commission will undertake a price undercutting analysis that focuses on data that covers transactions made during the investigation period. This analysis compares the price of the imported goods with the sales price of the locally produced goods, ensuring that the transactions are made under the same conditions (e.g. timing, volume, discounts, delivery, credit, same customer etc.).⁵

See the Applicants’ response to Request 2 in the Applicants’ written response to the further information sought, attached as Addendum 1.

During the conference, the Reviewing Member sought further clarification as to whether the Applicants’ claim was limited to the error being that the pre-inquiry period sales should have been excluded, or if it was also claimed that there was a difference in timing that was not considered, with respect to the remaining transactions.

See the Applicants’ response to Request 2 in the Applicants’ written response to the further information sought, attached as Addendum 1, which includes the Applicants’ response to the further clarification sought during the conference.

Further Information Provided After the Conference

Prior to the conference, the Applicants were requested to prepare a draft written version of their response to the further information sought, to be presented orally during the conference, with the final written version to be submitted following the conference. The final written version of the Applicants’ response is attached as Addendum 1.⁶

⁵ See Chapter 22 of the Manual, page 100.

⁶ The conference was held open for this purpose and the final written version of the Applicants’ oral presentation of the responses to the further information sought during the conference, was provided to the Review Panel following the conference.

FURTHER INFORMATION SOUGHT FROM THE APPLICANTS

1. It is noted that there is no written explanation in the Applicants' submission to the ADC dated 25 July 2024, in response to SEF 638 ("the 25 July 2024 SEF Response"), of the three attachments listed under Paragraph 2 ("the Relevant Attachments"),¹ other than that they are listed under the sub-heading, "Further information about pricing and non-subject country imports in the Australian market" (Paragraph 2), and stated as being information which forms part of the submission.

We thank the ADRP for its observation but wish to offer the following redirection with respect to the proposition that there was no written explanation, a proposition that we feel is incorrect, and that even if correct would not be determinative of the Commission's obligation to provide SSAB with procedural fairness.

Price undercutting with respect to wear plate was the Commission's reason for recommending that the Minister secure the continuation of the measures. Price undercutting involves a consideration of price competition. "*Further information about pricing...*", as per the heading to that part of SSAB's SEF submission, is exactly what the information was about and what it related to. Moreover, the information was identified as "*Forward order information*" and "*Forward order 13 POs [i.e., purchase orders]*", all of which related to wear plate and all of which was identified as having been ordered, contracted, and priced prior to the inquiry period, and invoiced at that price in the inquiry period ("the PO sales").

The simple fact of the matter is that the PO sales were contracted prior to the inquiry period. The price competition with respect to the wear plate as identified by the Commission, purportedly indicating price undercutting by SSAB, did not exist. Any price competition with respect to those purchase orders took place before the inquiry period. Although SSAB denies the proposition that those customers would have had an interest in ordering those products from Bisalloy, if they did have that interest then they would have compared price offers at that time. Instead, it appears that the Commission compared lower priced pre-inquiry sales by SSAB with higher priced inquiry period sales by Bisalloy.

With respect, we find the claim made by the Commission, as an experienced investigative agency, handling these cases every day of the week, to the effect that it was not cognisant of the significance and direction of SSAB's SEF submission, not to be believable. Rather, what occurred here was a failure on the Commission's part to make an obvious inquiry about a critical fact. Even harder to believe, and even harder to accept, is that the Commission would consider the information without any aim other than to determine whether it was complete and reliable, and to then reject it, when the Commission claims it did not think the information had any purpose.

¹ The Relevant Attachments listed are:

- (a) SSAB AU C-2 listing – Forward order information. [This would appear to be Confidential Attachment C28 in Schedule 2 of the application for review]
- (b) SSAB AU - Forward order 13 POs compiled. [This would appear to be Confidential Attachment C27 in Schedule 2 of the application for review]
- (c) Further comparative pricing example A; Further comparative pricing example B; and Further comparative pricing (and volume) example C. [This would appear to be Confidential Attachment C29 in Schedule 2 of the application for review]

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Further, as demonstrated by Attachment A to this Further Information response, “*Forward order information – POs cross-checked against invoices with reconciliation comments*”, the information was not incomplete nor unreliable.

Lastly, we wish to point out, for the benefit of the ADRP, that *the “Further comparative pricing example A; Further comparative pricing example B; and Further comparative pricing (and volume) example C”*, as mentioned in footnote 1(c), went to the second proposition dealt with in that part of SSAB’s SEF submission, which was “*Further information about... non-subject country imports in the Australian market*”. It is not relevant to the Commission’s price undercutting analysis as between SSAB and Bisalloy.

At the conference, the ADRP sought clarification as to whether Attachment A was a document that was previously before the Commission. In response SSAB conveyed the following:

- The information in Cols B, C and D of Attachment A to this Further Information response was placed before the Commission in SSAB’s comments on the SEF that were lodged with the Commission on 25 July 2025.
- The other information in Attachment A, apart from the information in Col M, was provided to the Commission in response to the C2 – Sales spreadsheet, which was lodged by SSAB in response to the Importer Questionnaire issued by the Commission.
- The information in Col M, “SSAB Comments”, is provided for the purposes of rebuttal of the Commission’s finding that the information in Cols B, C and D was “*incomplete and unreliable*”.
- That finding, that the information in Cols B, C and D was “*incomplete and unreliable*”, was first announced in the Final Report published at the time the Minister’s decision to secure the continuation of the measures was published. It was not tested way of inquiry or communication with SSAB.

It is noted further that, in the application for review, the Applicants provide further explanation and set out arguments based on the Relevant Attachments in support of Ground 1 relating to the ADC’s undercutting analysis in REP 638.² Please could the Applicants clarify the following in this regard:

- (a) **Why the wear plate findings were considered to be “counter-intuitive from SSAB’s perspective” because “a great many of the wear plate sales *invoiced during the inquiry period to certain customers had been ordered and contracted by them before the inquiry period*”. See application for review, page 5.**

In its submissions throughout the continuation inquiry, SSAB has maintained that it **[CONFIDENTIAL TEXT DELETED – SSAB sales policy information]** not be accused of injuring the Australian industry. It has done so by way of careful market inquiries, justified product quality and performance marketing **[CONFIDENTIAL TEXT DELETED – SSAB sales policy information]**.

² See application for review, pages 5 – 7.

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Thus, the statement that the wear plate findings were considered to be “*counterintuitive from SSAB’s perspective*” was based on SSAB’s intuition that the findings could not be correct.

The statement that “*a great many of the wear plate sales invoiced during the inquiry period to certain customers had been ordered and contracted by them before the inquiry period*” relates to two discoveries:

- when the SEF was published – the discovery that wear plate price undercutting had been detected by the Commission, and that it was the basis for the recommendation under consideration, which was to secure the continuation of the measures; and
- after the SEF was published – the discovery that order date information had likely not been considered, because the Commission’s C-2 sales spreadsheet had not asked for that information, and because SSAB then postulated that an incorrect time comparison for price injury purposes could have occurred by using the invoice date rather than the contract date of the PO sales.

At the conference, the ADRP asked about the date used for the purpose of the export price in the Commission’s dumping calculation, and whether it was invoice date, date of contract, or other. In response SSAB conveyed the following:

- The dumping calculation goes to the proposition of dumping, and the injury inquiry goes to the proposition of injury. How the export price was worked out does not determine the way price competition that actually occurred in the market is to be assessed for injury purposes.
- The export price was a deductive workback from the price level of SSAB Swedish Steel’s sales that were invoiced in the Australian market in the inquiry period. Costs of delivery, warehousing, logistics, SG&A and ocean freight were deducted from that price level to end up with an export price at Swedish FOB. This was the basis on which the C-2 Sales spreadsheet was laid out by the Commission and responded-to by SSAB.
- The transactions that were “in” the period for the export price side of the dumping analysis were SSAB Swedish Steel invoices issued in that period, as provided in the C-2 Sales spreadsheet.

(b) How the relevant purchase orders that were collected and the added columns (to the C-2 Sales spreadsheet) for “Customer PO #”, “Date of order”, and “Date of Arrival into [name of port]”, and the fact that they were all dated prior to the inquiry period, supported the Applicants’ Ground 1 challenging the ADC’s price undercutting analysis findings in REP 638. See application for review, pages 5 - 6.

The PO sales were contracted prior to the inquiry period. The price competition with respect to the wear plate as identified by the Commission, purportedly indicating price undercutting by SSAB, did not exist. Any price competition with respect to those purchase orders took place before the inquiry period. Although SSAB denies the proposition that those customers would have had an interest in ordering those products from Bisalloy, if they did have that interest then they would have compared price offers at that time. Instead, it appears that the Commission compared lower priced pre-inquiry sales by SSAB with higher priced inquiry period sales by Bisalloy.

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In response to a further clarification request by the Review Panel during the conference, SSAB conveyed the following:

- These were purchase order sales of wear plate contracted prior to the inquiry period that were then invoiced as per the pre-inquiry contracts in the inquiry period.
- The sales were part of the data collected by the Commission in the C-2 Sales spreadsheet. No “order date” information was requested in the C-2 sales spreadsheet.
- The Cols B, C and D information in Attachment A, presented to the Commission in response to the SEF, was an elaboration of information that had been presented to the Commission in the C-2 Sales spreadsheet. The situation was that the C-2 Sales spreadsheet did not ask for the sales information to also be identified by way of the order date, the implications of which for the price undercutting analysis are obvious.
- SSAB confirms that the invoices for the PO sales were part of the dumping calculation in the inquiry period (see also response to 1(a) above).

(c) Why the Applicants consider that “a prolonged period over which goods exported to Australia by SSAB EMEA are stored in warehouses” that the Applicants submit was recognised by the ADC for the export price determination, should be relevant to the price undercutting analysis. See application for review, page 6.

The submission relates only to the proposition that the importance of time as a relevant consideration in the Commission’s mind was recognised in its report with respect to its dumping analysis. Time is an equally relevant consideration with respect to the injury analysis, where it likely has not been recognised by the Commission.

(d) How the “time between order contract and domestic invoicing of the sales”, the “supply chain disruption” and “substantial and immediate price increases of mill orders” resulting from the Russia-Ukraine conflict, may have caused the “appearance of price undercutting” in Attachment 12. See application for review, page 7.

The time between ordering (price determination/contracting) and invoicing (delivery and payment) arose from customers anxious to buy large volumes in light of anticipated supply disruption. Our presumption is that the appearance of price undercutting in the Commission’s mind would have come about because of a price for SSAB wear plate from a date prior to the inquiry period being compared to a price for Bisalloy wear plate in the inquiry period, which was a later time, when market prices had increased.

In response to a further clarification request by the Review Panel during the conference, SSAB conveyed the following:

- A proper comparison would require the PO sales not to be included in the inquiry period price undercutting analysis, because those sales competed for business in the market before the inquiry period.
- SSAB has come forward with a claim about an error which if rectified by the removal of the PO sales from the comparison, may prove the Commission’s price undercutting finding with respect to SSAB’s wear plate to be incorrect. SSAB’s

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submission is that the inclusion of those sales was wrong, in the context of an appropriate frame of reference for the Commission's price undercutting analysis.

- SSAB's ground of review does not suggest that to rectify this error the Commission has to redo the investigation. SSAB's position is that the PO sales were not appropriate to include in an inquiry period analysis; that the finding was incorrect on that basis; and that they should be removed from that analysis.

2. During the Conference held on 24 January 2025 ("the January 2025 Conference"), the ADC confirmed that the comparison of prices in respect of the transactions in both Bisalloy and SSAB AU's sales listings for the price undercutting analysis, were based on invoice date. The ADC further clarified that the comparison was between: (i) sales from SSAB AU to its non-related customers in Australia (not export sales transactions between SSAB AU and SSAB EMEA); and (ii) Bisalloy's sales to its customers in Australia.³

Please indicate if the Applicants contend that that the comparison for the price undercutting analysis should have focused on different transaction dates for either SSAB AU or Bisalloy, and if so, the reasons therefore, with reference to the following statement from the Dumping and Subsidy Manual - December 2021 ("the Manual"):

The Commission will undertake a price undercutting analysis that focuses on data that covers transactions made during the investigation period. This analysis compares the price of the imported goods with the sales price of the locally produced goods, ensuring that the transactions are made under the same conditions (e.g. timing, volume, discounts, delivery, credit, same customer etc.).⁴

SSAB contends that that the comparison for the price undercutting analysis should have excluded wear plate sales contracted by SSAB prior to the inquiry period. Alternatively, the Commission could undertake a price comparison between sales contracted by SSAB and Bisalloy in a pre-inquiry period time, although how that would be possible in an investigation that has otherwise wholly investigated and based its conclusions on an analysis of the inquiry period is not clear. +

With respect to the extract from the Manual, we note the Commission's awareness of the importance of timing, to ensure that a price undercutting analysis focusses on data that compares transactions made under the same conditions. The purchase order transactions pre-date the inquiry period. Therefore, the prices in those transactions were not made under the same condition as to time as the Bisalloy transactions.

We emphasise that SSAB does not come before the ADRP arguing its position for third party benefit or advantage, nor for a re-running of the investigation, which is not within the Commission's or the ADRP's remit in any case. If other interested parties have a concern, then it is (was) open to them to lodge their own application with the Commission. From our observance of the ADRP's practices, the ADRP critically considers the error alleged by an

³ See ADC's response to Request 1(a) during the January 2025 Conference, set out in the ADC's written responses, being Annexure A to the January 2025 Conference Summary, pages 1 – 2.

⁴ See Chapter 22 of the Manual, page 100.

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applicant to have been made and forms a view as to the correct and preferable decision based on correction of that error and that error alone.

In this case, the PO sales are not comparable to the inquiry period sales because they were not made at the same time as inquiry period sales, nor even in that same period. What SSAB seeks is the excision of that information from the Commission's price undercutting analysis. If the removal of those sales deprives the Commission's price undercutting finding of its foundation, where that price undercutting finding was the basis of the Commission's recommendation to the Minister, then that recommendation cannot stand.

If the ADRP agrees, may we suggest that the ADRP request the Commission to present, in a further conference pursuant to Section 269ZZHA of the *Customs Act 1901*, its price undercutting analysis without those sales included. If that analysis does not support the wear plate price undercutting findings, then we respectfully submit that the correct and preferable decision would be for the ADRP to recommend to the Minister that the measures be allowed to expire after the specified expiry day of 5 November 2024.

In response to a further clarification request by the Review Panel during the conference, SSAB conveyed the following:

- SSAB is not trying to "blow up" the entire price undercutting analysis, such that it has to be redone with a reassessment of all interested parties' information therein. That is neither necessary nor appropriate.
- Having established that a certain tranche of sales were not inquiry period sales, then their removal from the price undercutting analysis is called-for. The outcome of that removal will then be a relevant consideration for the ADRP in making a recommendation to the Minister as to the "*correct and preferable*" decision.

ATTACHMENT A

Forward order information – POs cross-checked against invoices with reconciliation comments

NOTE: Attachment A is a confidential spreadsheet, which is summarised at page 2 of Addendum 1