PUBLIC RECORD

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

REPORT
NO. 418

STEEL REINFORCING BAR EXPORTED TO AUSTRALIA
FROM
GREECE, THE REPUBLIC OF INDONESIA, SPAIN (BY NERVACERO S.A), TAIWAN (BY POWER STEEL CO. LTD) AND THE KINGDOM OF THAILAND

22 January 2018

CONTENTS

ABBREVIATIONS

$	Australian dollars
ABF	Australian Border Force
ACRS	Australasian Certification Authority for Reinforcing and Structural Steels
the Act	*Customs Act 1901*
ADN	Anti-Dumping Notice
ADRP	Anti Dumping Review Panel
ARC	Australian Reinforcing Company
Australian Standard	Australian/New Zealand Standard AS/NZS 4671.2001
The applicant or OneSteel	OneSteel Manufacturing Pty Ltd now trading under the business name Liberty OneSteel
Celsa Barcelona	Celsa Compañía Española de Laminación, S.L.
CFR	Cost and freight
China	the People's Republic of China
CITT	Canadian International Trade Tribunal
CON 418	Consideration Report No. 418
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
Daehan	Daehan Steel Company Limited
the Dumping Duty Act	*Customs Tariff (Anti-Dumping Act) 1975*
Dumping duties	interim dumping duty and dumping duty
EBITDA	Earnings before interest, tax, depreciation and amortisation
EPR	Electronic public record
FOB	Free on board
GAAP	Generally accepted accounting principles
the goods, or the goods under consideration	the goods the subject of the application
IDD	Interim dumping duty
Indonesia	the Republic of Indonesia
Investigation 264	Dumping Investigation No. 264
Investigation 300	Dumping Investigation No. 300
Investigation 322	Countervailing Investigation No. 322
Ispat	PT Ispat Panca Putera
Korea	the Republic of Korea
L/C	Letter of credit

Lyndons	Lyndons Pty Ltd
the Manual	Dumping and Subsidy Manual
Millcon Steel	Millcon Steel PLC
mm	millimetres
Nervacero	Nervacero S.A
Neumann Steel	Neumann Steel Pty Ltd
NIP	Non-injurious price
OCOT	Ordinary course of trade
OneSteel Reo	OneSteel Reinforcing
PAD	Preliminary Affirmative Determination
PAD Direction	*Customs (Preliminary Affirmative Determinations) Direction 2015*
Power Steel	Power Steel Co. Ltd
Putra Baja Deli	PT Putra Baja Deli
the Parliamentary Secretary	the Assistant Minister for Science, Jobs and Innovation and Parliamentary Secretary to the Minister for Jobs and Innovation
Rebar or the 'goods'	Steel reinforcing bar
Rebar coils	Rebar in coil form
Rebar straights	Rebar in straight form
REP 264	*Anti-Dumping Commission Report No. 264*
REP 300	*Anti-Dumping Commission Report No. 300*
REP 322	*Anti-Dumping Commission Report No. 322*
REP 380	*Anti-Dumping Commission Report No. 380*
REP 418	Report in relation to Investigation 418
Sanwa	Sanwa Pty Ltd
SEF	Statement of Essential Facts
SEF 418	Statement of Essential Facts in relation to Investigation 418
SG&A	Selling, general and administrative
Sidenor	Sidenor Steel Industry S.A
SRCM	SRCM Pty Ltd
TER 418	Termination Report No. 418
the subject countries	together, Greece, Indonesia, Spain (exported by Nervacero S.A), Taiwan (exported by Power Steel Co. Ltd) and Thailand.
the subject countries found to be dumping	the subject countries, except exports by PT Ispat Panca Putera and PT Putra Baja Deli
Thailand	the Kingdom of Thailand
Turkey	the Republic of Turkey
USP	Unsuppressed Selling Price

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report has been prepared in response to an application for the publication of a dumping duty notice by OneSteel Manufacturing Pty Ltd, now trading under the business name Liberty OneSteel (referred to in this report as the applicant, or OneSteel). The application alleged that steel reinforcing bar (rebar or the goods),[1] exported to Australia from Greece, the Republic of Indonesia (Indonesia), Spain - by Nervacero S.A (Nervacero), Taiwan - by Power Steel Co. Ltd (Power Steel) and the Kingdom of Thailand (Thailand) (together, the subject countries), at dumped prices has caused material injury to the Australian industry producing like goods.

1.2 Recommendation to the Parliamentary Secretary

Based on the findings in this report, the Commissioner of the Anti-Dumping Commission (the Commissioner) recommends to the Assistant Minister for Science, Jobs and Innovation and the Parliamentary Secretary to the Minister for Jobs and Innovation (the Parliamentary Secretary) that a dumping duty notice be published in respect of rebar exported to Australia from Greece, Indonesia - except for exports by Indonesian exporters PT Ispat Panca Putera (Ispat) and PT Putra Baja Deli (Putra Baja Deli), Spain (by Nervacero), Taiwan (by Power Steel) and Thailand (together, the subject countries found to be dumping).[2]

The Parliamentary Secretary exercises the functions and powers of the Minister under Part XVB of the *Customs Act 1901* (the Act).[3]

1.3 Authority to make decision

Division 2 of Part XVB of the Act describes, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Parliamentary Secretary.

Section 269TDA describes the reasons upon which the Commissioner must terminate an investigation.

1.4 Application and initiation of investigation

On 31 May 2017, OneSteel lodged an application requesting that the Parliamentary Secretary publish a dumping duty notice in respect of rebar exported to Australia from the subject countries.[4] In its application, OneSteel alleged that the Australian industry had experienced injury due to exports of rebar from the subject countries at dumped prices through:

- price depression;
- price suppression;

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[1] A full description of the goods is at Chapter 3 of this report.

[2] On 20 December 2017, the Prime Minister appointed the Parliamentary Secretary to the Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation. For the purposes of this investigation, the Minister is the Parliamentary Secretary to the Minister for Jobs and Innovation.

[3] Unless otherwise specified all legislative references in this report are to the *Customs Act 1901*.

[4] Documents 1, 2 and 3, electronic public record 418.

- price undercutting;
- lost market share;
- lost sales volume;
- loss of revenue;
- loss of profits;
- loss of profitability;
- reduced capital investment;
- reduced asset utilisation;
- reduced employment and wages; and
- growing stock-on-hand.

On 16 June 2017, OneSteel provided further information in support of its application. Having considered the application and the supporting information provided by OneSteel, the Commissioner was satisfied of the matters set out in subsection 269TC(1). The Commissioner therefore decided not to reject OneSteel's application and initiated Investigation 418 on 27 June 2017.

Details of the initiation decision made by the Commissioner are available in Anti-Dumping Notice (ADN) No. 2017/92[5] and Consideration Report No. 418 (CON 418)[6], which are available on the electronic public record (EPR) maintained on the Anti-Dumping Commission's (the Commission's) website.[7]

The Commissioner specified that:

- 1 April 2016 to 31 March 2017 is the investigation period for the purpose of examining whether the goods exported from the subject countries were at dumped prices; and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped goods is from 1 April 2013.

1.5 Preliminary affirmative determination

In accordance with section 269TD, the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or if satisfied that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation of the goods into Australia.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (PAD Direction) directs the Commissioner to publish a status report providing reasons why a PAD was not made.

On 28 August 2017, being 60 days after the initiation of the investigation, the Commissioner published a status report.[8]

As required by section 9 of the PAD Direction, if the Commissioner has published a status report in relation to an investigation, the Commissioner must reconsider whether or not to

[5] Document 5, electronic public record 418.
[6] Document 4, electronic public record 418.
[7] www.adcommission.gov.au.
[8] Document 16, EPR 418.

make a PAD at least once prior to the publication of the Statement of Essential Facts (SEF).

The Commissioner reconsidered whether to make a PAD prior to the publication of the SEF in relation to Investigation 418 (SEF 418), and on 14 November 2017, the Commissioner made a PAD as he was satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice in relation to exports of the goods from the subject countries found to be dumping (ADN No. 2017/167 refers).[9]

Following the making of the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any interim dumping duty that may become payable, for goods exported from the subject countries found to be dumping and entered for home consumption in Australia on or after 15 November 2017.

1.6 Statement of Essential Facts (SEF)

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as allowed under subsection 269ZHI(3), place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary in relation to the application.

The Commissioner placed SEF 418 on the public record on 14 November 2017.[10]

1.7 Termination of part of the investigation

On 22 January 2018, the Commissioner terminated the investigation so far as it relates to rebar exported from Indonesia by Indonesian exporters Ispat and Putra Baja Deli in accordance with subsection 269TDA(1). Termination Report No. 418 (TER 418) sets out the reasons for the termination and is available on the public record.[11]

1.8 Final report

The Commissioner must, within 155 days after the initiation of an investigation arising from an application under section 269TB, or such longer period as allowed under subsection 269ZHI(3), provide his final report and recommendations in relation to the investigation to the Parliamentary Secretary,[12] unless the investigation is terminated earlier.

The Commissioner's final report in relation to Investigation 418 (REP 418) was originally due to be provided to the Parliamentary Secretary by 29 November 2017. The due date for providing the final report and recommendations was extended on two occasions by the Commissioner.[13] REP 418 was provided to the Parliamentary Secretary on 22 January 2018.

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[9] Document 42, EPR 418.
[10] Document 41, EPR 418.
[11] Document 65, EPR 418
[12] Subsection 269TEA(1)
[13] Document 24 and Document 54, EPR 418.

1.9 Findings and conclusions

The Commissioner has made the following findings and conclusions based on available and relevant information:

1.9.1 Like goods assessment (Chapter 3)

The Commissioner is satisfied that rebar produced in Australia is 'like' to the goods that are the subject of the application.

1.9.2 Exemptions (Chapter 4)

The Commissioner does not recommend that the Parliamentary Secretary exempt the following products from interim dumping duty or dumping duty:

- hot spooled rebar in coil form; and
- rebar in coil form of 20 millimetres (mm) diameter.

1.9.3 Australian industry (Chapter 5)

The Commissioner is satisfied that there is an Australian industry producing like goods to the rebar exported to Australia from the subject countries and that the Australian industry comprises one manufacturer, OneSteel.

1.9.4 Australian market (Chapter 6)

The Commissioner is satisfied that the Australian market for rebar is supplied by the Australian industry and imports from a number of countries, including the subject countries, countries that are currently subject to measures and other countries (not subject to measures or to this investigation).

1.9.5 Dumping (Chapter 7)

Table 1 below summarises the Commissioner's findings by country:

Country	Findings	Dumped volume	Termination
Greece	Imports from Greece were at dumped prices.	The volume of dumped goods from Greece was not negligible	No
Indonesia	• Imports from Ispat were negligibly dumped (i.e. the dumping margin was less than 2 per cent); • Imports from Putra Baja Deli were negligibly dumped (i.e. the dumping margin was less than 2 per cent); and • Imports from all other exporters were at dumped prices.	The volume of dumped goods from Indonesia, including negligibly dumped goods was not negligible.	No – except for Ispat and Putra Baja Deli – see TER 418
Spain	Imports from Nervacero were at dumped prices.	The volume of dumped goods from Spain (and from Nervacero individually) was not negligible.	No
Taiwan	Imports from Power Steel were at dumped prices.	The volume of dumped goods from Taiwan (and from Power Steel individually) was not negligible.	No
Thailand	Imports from Thailand were at dumped prices	The volume of dumped goods from Thailand was not negligible	No

Table 1 – Findings by country

The dumping margins determined for all exporters are set out in Table 2 below.

Country	Exporter	Dumping margin
Greece	Uncooperative and all other exporters	42.1%
Indonesia	Uncooperative and all other exporters	9.3%
Spain	Nervacero	7.5%
Taiwan	Power Steel	4.4%
Thailand	Millcon Steel PLC	9.3%
	Uncooperative and all other exporters	11.9%

Table 2 – Dumping margins summary

1.9.6 Economic condition of the Australian industry (Chapter 8)

The Commissioner is satisfied that the Australian industry producing like goods has experienced material injury in the form of:

- loss of market share;
- price suppression;
- reduced profits and profitability; and
- reduced return on investment.

1.9.7 Causation assessment (Chapter 9)

The Commissioner is satisfied that the Australian industry has suffered material injury as a result of rebar exported at dumped prices from the subject countries found to be dumping.

1.9.8 Will dumping and material injury continue? (Chapter 10)

The Commissioner is satisfied that dumping and material injury will continue if interim dumping duties are not imposed in relation to rebar exported from the subject countries found to be dumping.

1.9.9 Non-injurious price (Chapter 11)

The Commissioner has calculated a non-injurious price (NIP) equal to the normal value for each exporter from the subject countries found to be dumping, on the basis that the material injury caused by dumping is due to dumped import prices exerting a downward pressure on OneSteel's prices.

1.9.10 Recommended measures (Chapter 12)

The Commissioner recommends to the Parliamentary Secretary that anti-dumping measures be imposed in the form of a dumping duty notice for Greece, Indonesia (except for Indonesian exporters Ispat and Putra Baja Deli), Spain (Nervacero), Taiwan (Power Steel) and Thailand, and that dumping duties be worked out using the combination duty method.

1.9.11 Recommendations to the Parliamentary Secretary (Chapter 13)

The interim dumping duty rates recommended by the Commissioner are specified below.

Country	Exporter	Recommended interim dumping duty rate
Greece	Uncooperative and all other exporters	42.1%
Indonesia	Uncooperative and all other exporters (does not include Ispat and Putra Baja Deli)	9.3%
Spain	Nervacero	7.5%
Taiwan	Power Steel	4.4%
Thailand	Millcon Steel PLC	9.3%
	Uncooperative and all other exporters	11.9%

Table 3 – Recommended dumping duty rate

2 BACKGROUND

2.1 Previous cases

2.1.1 Investigation No. 264

Dumping Investigation No. 264 (Investigation 264), the findings of which can be found in *Anti-Dumping Commission Report No. 264* (REP 264),[14] assessed claims that rebar was exported from the Republic of Korea (Korea), Malaysia, Singapore, Spain, Taiwan, Thailand and the Republic of Turkey (Turkey) at dumped prices. On 20 October 2015, Investigation 264 was terminated as far as it related to exports from Malaysia, Thailand and Turkey.

REP 264 recommended to the then Parliamentary Secretary that a dumping duty notice be published in respect of rebar exported to Australia by all exporters from Korea, Singapore, Spain and Taiwan (with the exception of Power Steel).

The then Parliamentary Secretary agreed to the recommendations in REP 264 and the recommended measures were imposed on 19 November 2015.

The then Parliamentary Secretary's decision in REP 264 was reviewed by the Anti-Dumping Review Panel (ADRP) and on 4 March 2016, the ADRP found that the decision of the Parliamentary Secretary in REP 264 was the correct and preferable decision, except in relation to Spanish exporter Nervacero. As a result of the ADRP's recommendations (which were accepted by the then Parliamentary Secretary), rebar exported from Spain by Nervacero is not subject to the dumping duty notice that applies to rebar from Korea, Singapore, Spain and Taiwan.

2.1.2 Investigation No. 300

Dumping Investigation No. 300 (Investigation 300), the findings of which can be found in *Anti-Dumping Commission Report No. 300* (REP 300),[15] assessed claims that rebar was exported from the People's Republic of China (China) at dumped prices. The investigation found that the goods exported from China were at dumped prices, and that the dumped goods had caused material injury to the Australian industry. The then Parliamentary Secretary agreed to the recommendations in REP 300 and anti-dumping measures were imposed from 13 April 2016.

2.1.3 Investigation No. 322

Countervailing Investigation No. 322 (Investigation 322), the findings of which can be found in *Anti-Dumping Commission Report No. 322* (REP 322),[16] assessed claims that rebar exported from China had received countervailable subsidies. The investigation found that the goods exported from China were subsidised; however, the injury caused by that subsidisation could not be isolated from that caused by the dumping found in REP 300 and therefore no measures were imposed.

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[14] Document 98, EPR 264.
[15] Document 63, EPR 300.
[16] Document 55, EPR 322.

2.1.4 Review of Measures No. 380

Review of Measures No. 380, the findings of which can be found in *Anti-Dumping Commission Report No. 380* (REP 380),[17] assessed claims that the variable factors, in so far as they related to exports of rebar from Spain by Celsa Compañía Española de Laminación, S.L. (Celsa Barcelona), had changed. REP 380 found that the variable factors had changed and recommended that the dumping duty notice relating to rebar have effect in relation to Celsa Barcelona as if different variable factors had been ascertained.

2.2 Anti-circumvention inquiry No. 252

On 20 November 2017, the Commissioner initiated Anti-Circumvention Inquiry No. 252 in relation to exports of rebar from Korea by Daehan Steel Company Limited (Daehan) to Australia. The inquiry was initiated in response to allegations by OneSteel that circumvention, in the form of avoidance of the intended effect of the duty, had occurred. Details of the initiation decision made by the Commissioner are available in ADN No. 2017/163 and Consideration Report No. 452.[18]

2.3 Submissions

The Commission received numerous submissions from interested parties during the course of the investigation. A list of non-confidential submissions received by the Commission is at **Non-Confidential Attachment 1**.

In publishing SEF 418, the Commissioner did not consider submissions received on or after 31 October 2017, as to do so would have prevented the timely placement of the SEF on the public record.

Submissions received before 31 October 2017 were addressed in SEF 418.

Submissions received on or after 31 October 2017, but prior to publication of SEF 418, and submissions received in response to SEF 418, have been addressed in this final report.

2.4 REP 418

In formulating REP 418, the Commissioner has had regard to:

- the application by OneSteel;
- submissions concerning publication of a dumping duty notice to which the Commissioner had regard to for the purpose of formulating SEF 418;
- SEF 418;
- submissions received prior to SEF 418 which were not considered in the preparation of SEF 418;
- submissions received in response to SEF 418 after it was placed on the public record; and
- other matters considered relevant.[19]

[17] Document 6, EPR 380.
[18] Documents 2 and 3, EPR 452.
[19] Subsection 269TEA(3).

3 LIKE GOODS ASSESSMENT

3.1 Finding

The Commissioner is satisfied that rebar manufactured by the Australian industry is like to the goods that are the subject of the application (goods or goods under consideration).

3.2 Legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of is that there is an Australian industry producing like goods to the goods under consideration.

Subsection 269TC(1) of the Act requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are 'like' to the imported goods. Subsection 269T(1) defines like goods as:

> [g]*oods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration*.

3.3 The goods

The goods are:

> *[h]ot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.*
>
> *The goods covered by this application include all steel reinforcing bar meeting the above description regardless of the particular grade, alloy content or coating.*
>
> *Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.*

3.4 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff subheading	Statistical code
7213.10.00	42
7214.20.00	47
7227.90.10	69
7227.90.90	42[20]
7227.90.90	01, 02, 04[21]
7228.30.10	70
7228.30.90	40
7228.60.10	72

Table 4 – Tariff Classifications

Note: The goods are defined by the goods description, not the tariff classifications

3.5 Like goods assessment

In its application OneSteel stated that imported rebar is manufactured in a similar manner to the rebar produced in Australia, is directly substitutable for rebar produced domestically by OneSteel, and possesses the same essential performance characteristics as domestically produced rebar. It noted that rebar is generally regarded as a commodity product, which when having similar grade and dimension, is interchangeable regardless of origin.

The Commissioner's assessment of whether domestically produced rebar is identical to, or closely resembles, the goods under consideration is based on a comparison of the information provided by OneSteel in its application, the information gathered through verification visits to OneSteel, importers and exporters, and submissions made to Investigation 418.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to the imported goods. The industry must, however, produce goods that are 'like' to the imported goods.

Where the domestically produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.5.1 Physical likeness

The Commissioner is satisfied that the primary physical characteristics of the imported goods and locally produced rebar are alike.

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[20] Operative until 31 December 2014.
[21] Operative from 1 January 2015.

The Australian industry produces rebar in coil and straight forms (referred to in this report as rebar coils and rebar straights, respectively) in a range of sizes and diameters to meet the requirements of Australian/New Zealand Standard *AS/NZ 4671:2001 Steel reinforcing materials* (the Australian Standard). The Australian Standard specifies the desired mechanical, chemical and dimensional characteristics for rebar in the Australian market.

Like the domestically produced rebar, the imported goods that are sold in the Australian market are typically manufactured to meet the requirements of the Australian Standard. The desired chemical, mechanical and dimensional requirements for rebar that are specified by the Australian Standard can be achieved by different methods, such as the addition of micro-alloys or heat treatment and cold working processes.

The imported rebar and domestically produced rebar are manufactured to a similar range of lengths and diameters, and are alike in appearance. While the indentations, ribs and grooves on the rebar vary between mills, these variations do not significantly modify the performance characteristics of the rebar. The Australian Standard dictates the percentage of surface area that must contain deformations.

3.5.2 Commercial likeness

Domestically produced rebar competes directly with imported rebar in the Australian market and is sold to common users. The Commissioner considers that the imported rebar and domestically produced rebar are commercially interchangeable.

Imported and domestically produced rebar is purchased by rebar processors and steel service centres for supply into the residential, commercial and engineering construction sectors. The distribution channels (which are depicted at section 6.3 of this report) are the same for imported rebar and the domestically produced rebar.

The verified exporter and importer data indicates that parties in the supply chain switch between purchasing rebar from import sources and Australian industry. The Commission has observed that there is close price competition in the market suggesting that product differentiation is not recognised by the market.

3.5.3 Functional likeness

Both the domestically produced and imported goods have comparable or identical end-uses.

Rebar can be used ‘as is’ or may be subject to post production processing, such as bending, welding and cutting. The use of rebar coil requires the use of straightening and cutting machines before the coil can be used in straight lengths or be further fabricated, but rebar processors or service centres can use either rebar straights or rebar coils depending on the equipment available in their processing facility.

The end uses are similar with domestically produced and imported rebar (straights or coils) being predominantly used to reinforce concrete structures and precast structures. The imported goods and the domestically produced goods are therefore considered functionally substitutable.

3.5.4 Production likeness

The Commissioner considers that the domestically produced goods are manufactured in a similar manner to the imported goods.

OneSteel's mills are certified by the Australasian Certification Authority for Reinforcing and Structural Steels (ACRS), which is an independent, not for profit production certification scheme. The ACRS 'mark' is internationally recognised as the means of showing conformity to the Australian Standard. Steel mills with ACRS accreditation are subject to the manufacturing and testing processes prescribed by ACRS to meet the requirements of the Australian Standard. Imported rebar sold in the Australian market generally originates from mills that are ACRS accredited.

Based on its observation of the exporters' production facilities and OneSteel's production facility at Laverton, and the information provided by exporters and OneSteel regarding their production processes, the Commission considers that key production steps and processes are alike.

3.5.5 Conclusion

The Commissioner is satisfied that the domestically produced goods are 'like goods' as defined in subsection 269T(1) to the goods under consideration.

4 EXEMPTIONS

4.1 Introduction

The Commission received submissions seeking the exclusion of spooled rebar coils of the type that is produced by exporters Nervacero and Sidenor Steel Industry S.A (Sidenor) from the scope of this investigation on the basis that these are a distinct, specialised product that do not compete with the rebar manufactured by Australian industry. Submissions were also received seeking the exclusion of rebar coils of 20 mm diameter from the scope of this investigation on the basis that OneSteel does not produce rebar coils of 20 mm diameter. These submissions are discussed in greater detail further below.

Under subsection 8(7) of *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) the Minister has the discretion to exempt goods subject to interim dumping duty and dumping duty (dumping duties) from that duty in certain circumstances. In particular subsection 8(7)(a) of the Dumping Duty Act provides that the Minister may, by notice in writing, exempt goods from dumping duties, if he or she is satisfied that like or directly competitive goods are not offered for sale to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.[22]

Noting that the Commissioner cannot amend the goods description, or declare that goods falling within the goods description should not be subject to the investigation, the Commissioner has considered whether to recommend to the Parliamentary Secretary that spooled rebar coils manufactured using a hot rolled process (as is produced by Nervacero and Sidenor) and/or rebar coils of 20 mm diameter be exempted from dumping duties under subsection 8(7)(a) of the Dumping Duty Act.

4.2 Exemption of hot spooled rebar coil

4.2.1 Submissions from interested parties

Government of Spain: The Government of Spain submitted[23] that rebar coils produced by Nervacero are obtained from a different production process and have differentiated characteristics which translates to higher productivity and provides logistical advantages. It submitted that hot-spooled coils should be removed from the scope of this investigation, since they are non-identical products to the product manufactured by Australian industry.

Nervacero: Nervacero in its submissions[24] argued against the cumulation of exports by Nervacero with exports from other subject countries on the basis that its spooled rebar coils are a distinct, specialised product that fall within the goods description but do not compete with products manufactured by the Australian industry – the product is of a type not manufactured by Australian industry, is uniquely suited to a particular processing solution and cannot be said to be causing injury to Australian industry. Nervacero submitted that:

- the ‘spooler’ lines at Nervacero’s factory allow for the continuous production of ‘as rolled’ spooled coils. This production takes place directly from the rolling mill production line in a continuous hot rolling process;

[22] The Commission has confirmed that no applicable Tariff Classification Orders in respect of the goods are in force, so section 8(7)(b) of the Dumping Duty Act has no application.
[23] Document 46, EPR 418.
[24] Documents 34, 50 and 61, EPR 418.

- the spooler technology that is used allows a twist free method of winding the bar in coil which produces a compact coil directly from the rolling mill, without any additional process. It also allows for the production of coils of diameters of up to 25 mm, with much higher tonnage. There is a clear and visible difference in terms of the compactness and layering of the coils;
- spooler coils are easier to process and there is no bending out of plane after the de-coiling process. This reduces the number of defective pieces allowing for higher processing speeds and higher productivity. Due to higher tonnage per coil, and the possibility to use all diameters needed, less changes are required during processing of the coils allowing for a lower number of machine adjustments, higher productivity and fewer leftovers. Because the coils are larger and more compact, there are cost savings in both transport and storage; and
- product differentiation rather than price competition has created a niche market for Nervacero.

Sidenor: Sidenor submitted[25] that the spooled coil exported by Sidenor is not produced by OneSteel as it does not have a spooler process within its facility and that Sidenor's spooled coil is of a much better type and form for take up into automated fabrication procedures.

OneSteel: In response to the submissions noted above, OneSteel submitted[26] that:

- rebar sold in the Australian market is typically produced to meet the Australian Standard. Exporters seeking ACRS accreditation, as currently held by Nervacero and Sidenor, are certified to produce rebar that complies with the requirements of the Australian Standard. The Australian Standard does not stipulate a method of manufacture as it recognises that there are various methods that are equally capable of delivering desired mechanical and chemical characteristics;
- OneSteel produces a spooled rebar product that competes directly with the imported spooled rebar coils (and rebar straights) in the domestic market;
- OneSteel produces its spooled rebar product not through a hot spooled process but through a hot-rolled, cold stretched and layer spooling process to obtain the desired mechanical properties. It has the ability to deliver optimum coil sizes with benefits similar to that of rebar coils produced by Nervacero and Sidenor; and
- OneSteel's spooled rebar product delivers similar benefits to the rebar coils obtained through a hot-spooled process (i.e. improved processing through automatic cutting and bending machines) as are claimed by Nervacero and Sidenor.

In an additional submission,[27] OneSteel stated that:

- rebar in coils (whether spooled or not) and rebar straights are like goods. This is consistent with the Commission's findings in REP 264;
- spooled and non-spooled rebar coils, and rebar straights of a certain diameter are interchangeable feed material when required to produce fabricated products of that diameter, i.e. 20 mm rebar coils (spooled or not) and 20 mm rebar straights can be used interchangeably to produce fabricated products of 20 mm diameter.

[25] Documents 40 and 52, EPR 418.
[26] Document 56, EPR 418.
[27] Document 63, EPR 418.

OneSteel provided a description of the processing of rebar straights and coils within the processing facilities of its downstream related entity, Australian Reinforcing Company (ARC).

4.2.2 The Commissioner's consideration

The Commissioner notes that the test under subsection 8(7)(a) is not whether the Australian industry produces an identical product but whether it produces 'like or directly competitive goods'.

OneSteel produces spooled rebar coils in 10 mm, 12 mm and 16 mm diameters through a hot-rolled, cold stretched and layer spooling process. During the investigation period OneSteel produced non-spooled or 'wild' rebar coil of 20 mm diameter. OneSteel also produces rebar straights in a range of diameters from 10 mm to 40 mm.

The information provided by OneSteel supports its claim that the spooled rebar coils that it produces through a hot rolled, cold stretched and layer spooling process enable improved processing by automatic cutting and bending machines, improving the efficiency of the automated process (i.e. OneSteel's rebar coils offer comparable benefits to those that Nervacero and Sidenor claim are associated with their hot spooled rebar coil product).[28]

The Commissioner considers that ACRS certified rebar coils that meet the Australian standard are interchangeable and fill the same customer needs regardless of whether they are spooled or unspooled and regardless of the manner in which they were produced. The rebar coils produced by Australian industry and the imported hot spooled rebar coils are used in automated fabrication applications. There is no evidence of any unique characteristics in the fabricated end product linked to the manner of production of the rebar that is used. Processors and distributors who purchase rebar coil exported by Sidenor and Nervacero also purchase rebar coil from Australian industry. The information before the Commissioner indicates that rebar coils from Australian industry and import sources subject to this investigation can be used by the same end users for the same application, suggesting that the two products are so functionally alike as to be interchangeable

Further, the Commissioner is satisfied that the rebar straights manufactured by OneSteel are 'directly competitive goods' to the rebar coils produced by Nervacero and Sidenor. The Commissioner's consideration of this issue is discussed in greater detail below at section 4.3 of this report.

Submissions to the Commission indicate that OneSteel generally supplies larger distributors, and customers must agree to the terms of OneSteel's Supply Agreement.[29] The Commissioner is satisfied that OneSteel offers it rebar coils to customers on equal terms and under like conditions, i.e. subject to the purchasers committing to certain volume requirements and meeting other terms of OneSteel's Supply Agreement.

4.2.3 Conclusion

The Commissioner is satisfied that the rebar coils and rebar straights produced by OneSteel are 'directly competitive goods' to the hot spooled rebar coils of the type

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[28] Attachment A to Document 56, EPR 418.
[29] Documents 43,44 and 55 EPR 418.

produced by Nervacero and Sidenor, and that OneSteel's rebar coils and rebar straights are offered for sale to customers on equal terms and under like conditions.

The Commissioner does not recommend that the Parliamentary Secretary grant an exemption from dumping duties for hot spooled rebar coils.

4.3 Exclusion of 20 mm rebar coils from the scope of this investigation

4.3.1 Submissions from interested parties

Government of Spain: The Government of Spain submitted[30] that OneSteel does not produce 20 mm diameter rebar coils and, if this was confirmed, 20 mm coils should be removed from the scope of the investigation as no injury could be done to Australian industry by this specific product.

Nervacero: In its submissions regarding the cumulation of exports by Nervacero with exports from other subject countries,[31] Nervacero claimed that there are many indications of the lack of substitutability and different markets for rebar coils and straights including that OneSteel does not produce 20 mm rebar coil, that OneSteel imports rebar coil and that rebar coils and rebar straights are priced at different levels with Australian customers buying rebar coils from Nervacero and Sidenor at higher prices than rebar straights from other countries. Nervacero claimed that rebar coils and rebar straights are different products, competing in different parts of the market and providing different commercial solutions to customers. Nervacero submitted that if the Commission is inclined to find that injury has been caused by Nervacero's exports, it has no option but to exclude 20 mm rebar coils from the scope of the investigation.

Sidenor: Sidenor submitted[32] that OneSteel does not produce 20 mm diameter coils and, if this was confirmed, 20 mm coils should be removed from the scope of the investigation. It also submitted in relation to the cumulation of exports from Greece with exports from other subject countries that spooled coil which is exported by Sidenor and Nervacero is a different product to rebar straights.

OneSteel: In its submission,[33] OneSteel stated that it produces 20 mm rebar straights which can be considered substitutable for 20 mm rebar coils in many applications, and it produces 20 mm rebar in coil. In a further submission referred to at section 4.1.1 above, OneSteel submitted that spooled and non-spooled rebar coils of 20 mm diameter and rebar straights of 20 mm diameter are interchangeable feed material when required to produce fabricated products of 20 mm diameter.

4.3.2 Commissioner's consideration

OneSteel produces rebar straights in a diameter range from 10 to 40 mm, including 20 mm. It also produces unspooled rebar coil of 20 mm diameter.

OneSteel in its submission[34] described the steps that are followed to produce fabricated products using rebar coils and rebar straights within ARC's processing facilities, and

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[30] Document 46, EPR 418.
[31] Documents 50 and 61, EPR 418.
[32] Document 40, EPR 418.
[33] Document 56, EPR 418.
[34] Document 63, EPR 418.

submitted that rebar coils of 20 mm diameter and rebar straights of 20 mm diameter are entirely interchangeable feed material for use in the production of 20 mm diameter finished fabricated products.

In another submission,[35] OneSteel cited a decision by the Canadian International Trade Tribunal (CITT) in a recently concluded investigation into rebar exported from Spain rejecting a request from the Celsa Group that hot-spooled rebar coils produced using spooler technology was a distinct product and should therefore be excluded from the investigation.[36] The Commissioner notes that Nervacero is part of the Celsa Group and the Celsa Group sought an exclusion before the CITT on the same basis on which an exclusion of spooled rebar coils is being sought in this investigation.

In its consideration of whether an exclusion should be granted for hot spooled rebar coils, the CITT considered whether rebar coils are directly competitive with rebar straights. It found that the hot spooled rebar coils are fully substitutable for, and would compete with, both straight and coil rebar produced by the domestic industry. The CITT noted that the process of unspooling, even if the end user must use special machinery, does not change the product; nor is the unspooled rebar used for different applications. In response to claims made by the Celsa Group that the price premium for coils precludes direct competition between rebar coils and rebar straights, the Canadian domestic industry argued that customers will often choose to use rebar straights instead of rebar coils because the lower price associated with rebar straights outweighs the convenience and lower yield loss associated with using rebar coils. The CITT found that, given that the majority of end users already own the equipment, the cost of straightening and cutting coil is not high, and that the premium that would normally be charged for rebar coil would be completely eroded by dumping; as a result, there would be no barrier to the hot spooled rebar coils being able to compete on price with either rebar straights or rebar coils. The Commissioner considers that the CITT's reasoning is persuasive and is consistent with the view that was taken by the Commissioner in REP 264.[37]

Sidenor in its submission[38] enclosed information about a new technology for industrial prefabrication of rebar that automates the fabrication of rebar in accordance with computer aided inputs. Sidenor stated that the feed stock for this technology is rebar coil only, and it cannot process rebar straights.

The Commissioner accepts that some applications may only use rebar coils as feedstock. The Commissioner also accepts that rebar coils may offer operating efficiencies to rebar processors such as a higher processing rate, reduced losses from unusable offcuts and logistical and storage benefits. However, the Commissioner considers that rebar straights and rebar coils of a given diameter that meet the requirements of the Australian Standard are generally substitutable in most applications. While rebar coils have to undergo a process of straightening and cutting before they can be used 'as is' or further processed, this process of straightening and cutting does not have any effect on their mechanical and chemical characteristics or their end uses. The Commissioner notes that Sidenor in its submission[39] conceded that spooled rebar coils can be used for the same purposes as rebar straights, though they can be less economical in those uses than rebar straights.

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[35] Document 56, EPR 418.
[36] http://www.citt.gc.ca/en/node/8088#_Toc487016527.
[37] Section 3.6.4, Document 98, EPR 264.
[38] Non-confidential attachment to Document 40, EPR 418.
[39] Document 52, EPR 418.

The Commission's analysis, which is discussed further at section 9.3.3 of this report does not support claims that Australian customers are buying rebar coils at higher prices (indicating minimal product differentiation). The information before the Commission thus indicates that rebar straights and rebar coils (regardless of the method of production and whether spooled or unspooled) are commercially and functionally substitutable.

As noted previously, submissions to the Commission indicate that OneSteel generally supplies larger distributors, and customers must agree to the terms of OneSteel's Supply Agreement. The Commissioner is satisfied that OneSteel offers rebar straights and rebar coils of 20 mm diameter to customers on equal terms and under like conditions, i.e. subject to the purchasers committing to certain volume requirements and meeting other terms of OneSteel's Supply Agreement.

4.3.3 Conclusion

The Commissioner is satisfied that the rebar straights and rebar coils of 20 mm diameter produced by OneSteel are 'directly competitive goods' to 20 mm rebar coils of the type produced by Nervacero and Sidenor, and that OneSteel offers these goods for sale to customers on equal terms and under like conditions.

The Commissioner does not recommend that the Parliamentary Secretary grant an exemption from dumping duties for rebar coils of 20 mm diameter.

5 THE AUSTRALIAN INDUSTRY

5.1 Finding

The Commissioner is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the Australian industry comprises a single manufacturer, OneSteel.

The Commissioner is satisfied that OneSteel conducts all of the substantial processes in the production of rebar at its manufacturing plants in Australia.

5.2 Legislative framework

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of is that there is an Australian industry producing like goods to the goods under consideration.

Subsections 269T(2) and 269T(3) of the Act specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

5.3 Australian industry

OneSteel stated in its application that it is the sole Australian producer of rebar in Australia. The Commissioner is not aware of any other producer of rebar in Australia and no submissions or other information has been received to indicate that there are any other producers of rebar in Australia. The Commissioner therefore considers that the Australian industry for rebar is represented by OneSteel.

OneSteel's manufacturing facilities related to rebar are:

- the fully integrated Whyalla Steelworks in South Australia;
- two electric arc furnaces (EAFs) located in Laverton in Victoria and Sydney in New South Wales; and
- rod and bar mills situated in Laverton in Victoria, and Newcastle and Sydney in New South Wales.

OneSteel produces both rebar coils and rebar straights in a variety of diameters. OneSteel provided a description and diagram of its production processes with its application. It also provided product brochures detailing its rebar product range.

During the OneSteel verification visit, OneSteel provided a tour of the EAF, rod mill and bar mill facilities at Laverton where the Commission observed its steel making processes.

Following the Commission's verification of OneSteel's manufacturing processes, the Commissioner is satisfied that OneSteel produces steel billets, which are transported to its manufacturing facilities which are located in Australia. At the manufacturing facilities, these steel billets are reheated and passed through a series of rolling stands that reduce the size, while changing the shape from a square section to a circular one with indentations, thus forming rebar.

The Commissioner is therefore satisfied that OneSteel produces rebar at its facilities which are located in Australia.

6 AUSTRALIAN MARKET

6.1 Finding

The Commissioner has found that the Australian market for rebar is supplied by the Australian industry and imports from a number of countries, including the subject countries, countries that are currently subject to measures and other countries (that are not currently subject to measures or subject to this investigation). The Commissioner estimates that the size of the Australian market during the investigation period was approximately one million tonnes.

6.2 Market segmentation and end-use

The key market segments for rebar are:

- residential construction;
- non-residential commercial construction;
- engineering construction (including mining and infrastructure); and
- swimming pool construction (to a lesser extent).

In its application OneSteel stated that imported and locally produced rebar is primarily purchased by rebar processors and steel service centres who typically process it before supplying the rebar into the commercial, residential and engineering sectors. Rebar processors quote jobs to the construction sector, cut and bend locally manufactured or imported rebar to order, and deliver to job sites. Steel service centres also purchase locally produced or imported rebar to stock for resale, primarily to smaller rebar processors for use as concrete reinforcement.

Final end use applications for rebar include (but are not limited to) concrete slabs and prefabricated concrete beams, columns, cages and precast products. The vast majority of rebar is fabricated in some way prior to end use.

6.3 Market distribution

The Australian rebar market is supplied by OneSteel, importers that on sell to end-users, and end-users that directly import rebar.

OneSteel's rebar is sold and delivered Australia wide with the majority of the volume sold in the eastern states of Queensland, New South Wales and Victoria. Rebar is distributed by rail and road between the capital cities of Adelaide, Brisbane, Melbourne and Sydney, and is dispatched by sea freight to Perth and Tasmania.

OneSteel sells rebar straights and coils to external (unrelated) steel service centres and distributors and also has internal sales to OneSteel's related businesses. A significant proportion of OneSteel's sales are to its related entities ARC and OneSteel Reinforcing (OneSteel Reo) who compete with OneSteel's unrelated customers in the downstream market.

OneSteel explained that unrelated customers generally purchase a combination of imported and locally produced rebar. OneSteel's related entities source their entire supply of rebar from OneSteel.

The supply chain for rebar is shown below (noting that the reinforcing fabricators and steel service centres include OneSteel's related entities ARC and OneSteel Reo).

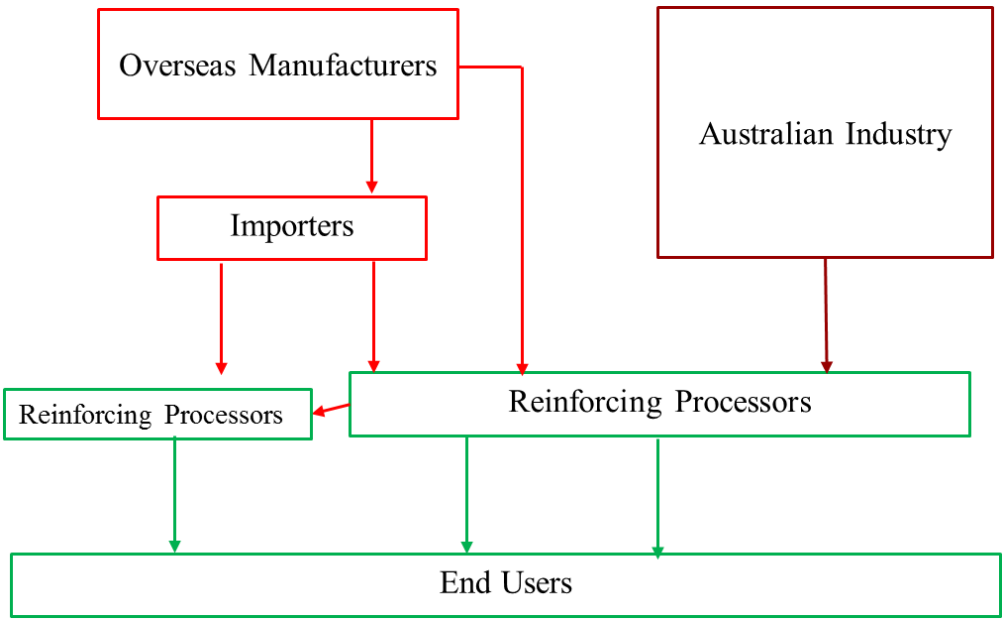

Figure 1 – Australian supply chain for rebar

Information before the Commissioner indicate that OneSteel generally supplies larger rebar distributors and processors and its customers must commit to the terms of OneSteel's Supply Agreement. Independent distributors and rebar processors who do not meet OneSteel's customer profile have the option of purchasing rebar from Australian traders/importers or sourcing rebar directly through overseas mills or purchasing rebar from OneSteel's related entities.

6.4 Demand variability

OneSteel explained that the commercial construction market is the main driver of demand for rebar. OneSteel stated that there was some seasonal fluctuation with a downturn at the end of the year around the Christmas holiday period and coinciding with the wet season in northern Australia.

6.5 Market size

In its application, OneSteel estimated the size of the Australian market using three sources:

- Australian Bureau of Statistics import data;
- an independent recognised supplier of international trade statistics; and
- OneSteel's domestic sales.

For the purposes of estimating the size of the Australian rebar market, the Commission combined OneSteel's domestic sales of its own production with Australian Border Force (ABF) import data. OneSteel's domestic sales data was verified during the Australian industry visit.

The Commission analysed the ABF data and compared it to data obtained during the verification of major exporters from the subject countries.

The Commissioner considers that the ABF import database is a reliable source of data for imported rebar and that it is relevant and suitable for estimating the size of the Australian market for rebar.

The Commissioner's estimate of the size of the Australian rebar market over the injury analysis period is depicted in Figure 2 below.

'Subject to investigation' in Figure 2 below refers to the subject countries, including Ispat and Putra Baja Deli. The Commissioner has separately assessed the effect of exports to Australia by Ispat and Putra Baja Deli (see section 9.8.3 of this report) and is satisfied that the termination of part of this investigation against Ispat and Putra Baja Deli does not affect his findings below.

'Subject to measures' in Figure 2 below refers to the countries (and exporters) that are currently subject to measures as a result of findings made in REPs 264, 300 and 380 and following the decision of the ADRP in its published Report No. 34. These countries are China, Korea, Spain (except for Nervacero), Taiwan (except for Power Steel) and Singapore.

'Other' in Figure 2 below refers to countries that are not currently subject to measures and not subject to this investigation.

In its application, OneSteel disclosed that it imported rebar during the injury analysis period. Figure 2 below depicts OneSteel's direct imports separately to OneSteel's own production domestic sales.

Note: In this report, a reference to a year indicates April of that year to March of the following year. For example, a reference to 2016 is a reference to the period from April 2016 to March 2017.

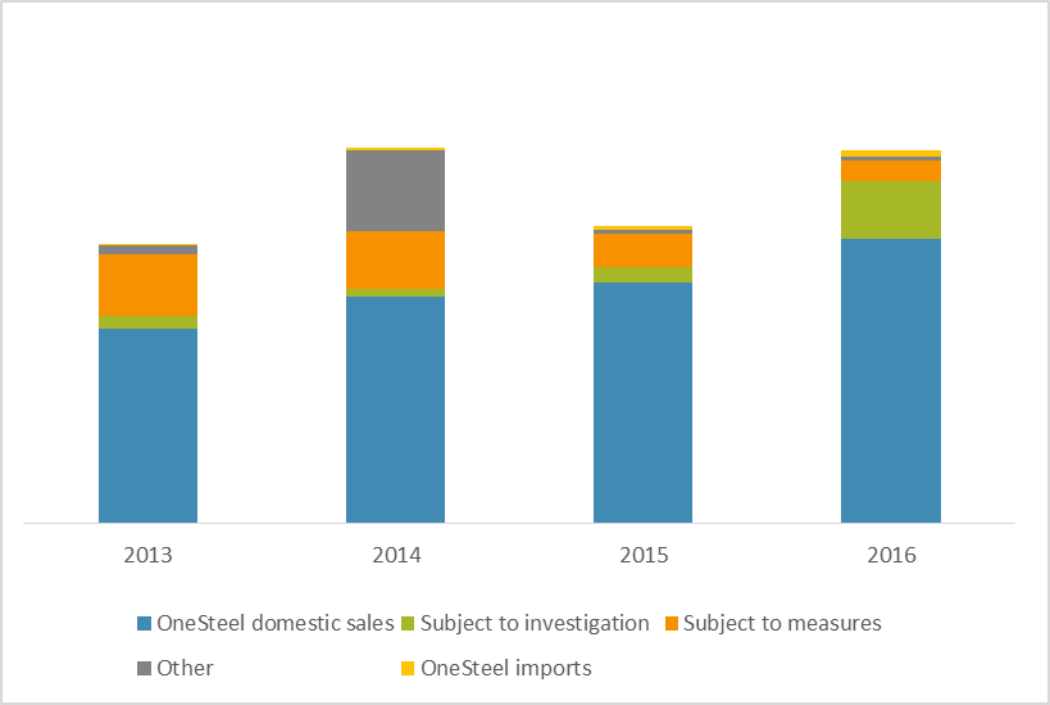

Figure 2 – Australian market for rebar (tonnes)

The Commissioner notes that while there have been some fluctuations year-to-year between 2013 and 2016 in the size of the Australian market for rebar, the size of the market overall increased by approximately 33 per cent in 2016 as compared to 2013.

In 2016, the Australian market for rebar increased by 25 per cent as compared to 2015.

The Commission's analysis of market size is at **Confidential Appendix 1**.

6.6 Importers

The Commission examined the ABF import database and identified 24 importers of rebar from the subject countries in the investigation period. The four largest importers accounted for 76 per cent of imports from the subject countries during the investigation period.

The Commission undertook verification visits to the following four importers:

- Stemcor (S.E.A) Pty Ltd;
- Commercial Metals Australia Pty Ltd;
- Sanwa Pty Ltd (Sanwa); and
- Neumann Steel Pty Ltd (Neumann Steel).

At the verification visits conducted to each of these companies, the data submitted was verified and found to be relevant, accurate and complete. Visit reports for the above importers can be found on the public record available on the Commission's website at www.adcommission.gov.au.

7 DUMPING INVESTIGATION

7.1 Finding

The Commissioner has found that during the investigation period exports from Indonesia by Ispat and Putra Baja Deli were dumped, but the dumping margins were negligible (i.e. less than 2 per cent), and that exports from:

- Spain by Nervacero;
- Taiwan by Power Steel;
- Thailand by Millcon Steel PLC (Millcon Steel); and
- Greece, Indonesia and Thailand by uncooperative and all other exporters,

were dumped, and the dumping margins were not negligible.

The Commissioner's dumping findings in relation to rebar exported to Australia during the investigation period from each of the nominated countries is summarised at Table 1 (at section1.9.5). The dumping margins are summarised at Table 2.

On 22 January 2018, the Commissioner terminated the dumping investigation so far as it relates to Ispat and Putra Baja Deli (as the Commissioner was satisfied that the dumping margins for these exporters was less than 2 per cent).

The Commission's calculations of export price, normal value and dumping margins are at **Confidential Appendix 2**

7.2 Legislative framework

In his report to the Parliamentary Secretary under subsection 269TEA(1), the Commissioner must recommend whether the Parliamentary Secretary ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively.

Dumping margins are determined under section 269TACB.

7.3 Exporters

Subsection 269T(1) provides that, in relation to a dumping investigation, an exporter is a 'cooperative exporter' where the exporter's exports were examined as part of the investigation and the exporter was not an 'uncooperative exporter'. At the commencement of the investigation, the Commission contacted known exporters of the goods from the countries within the scope of the investigation as identified in the ABF's import database, and invited them to complete an exporter questionnaire. The exporter questionnaire sought information regarding the exporters' commercial operations, the goods exported to Australia, like goods sold on the domestic market and to third countries, economic and financial details and relevant costing information.

The Commission received a satisfactorily completed response to the exporter questionnaire (REQ) within a reasonable period from each of the following exporters:

- Ispat (Indonesia);
- Putra Baja Deli (Indonesia);
- Nervacero (Spain);
- Power Steel (Taiwan); and
- Millcon Steel (Thailand).

The Commissioner considers that these exporters are cooperative exporters.

Non-confidential exporter questionnaire responses and verification visit reports for each of the cooperating exporters are available on the public record and provide additional detail to the discussion below.[40] The visit reports should be read in conjunction with this report.

7.4 Uncooperative exporters

Subsection 269T(1) provides that, in relation to a dumping investigation an exporter is an 'uncooperative exporter' where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

The Commissioner has regarded any exporter that did not submit a satisfactorily completed REQ, within a reasonable period, as uncooperative.

In response to the Commissioner's invitation to complete a REQ, Sidenor wrote to the Commission to advise that it would not be cooperating with the investigation through the provision of a REQ.[41] The Commissioner considers that Sidenor is an uncooperative exporter.

In relation to uncooperative and all other exporters from Greece, Indonesia and Thailand, the Commissioner has had regard to all relevant information to calculate dumping margins. Details regarding the determination of dumping margins for uncooperative and all other exporters from Greece, Indonesia and Thailand can be found at section 7.9 of this report.

7.5 Approach to verification – cooperative exporters

The Commission conducted onsite verification in relation to all the cooperative exporters On the basis of the Commission's onsite verification, the Commissioner is satisfied that:

- the verified data provided by the cooperative exporters is reasonably accurate, relevant, complete; and
- the data can reliably be used to calculate dumping margins.

7.5.1 The Commission's verification findings

OneSteel's submission to the SEF[42] questioned the Commissioner's findings regarding the reliability of the data provided by the cooperative exporters.

[40] Documents 10, 11, 12, 13, 14, 26, 27, 29, 31 and 39, EPR 418.
[41] Document 08, EPR 418.
[42] Document 47, EPR 418.

The Commissioner is satisfied that the information provided by each cooperative exporter is accurate, relevant and complete, and can be relied on to calculate dumping margins for each exporter.

The Commissioner has had regard to:

- the standard procedures that Commission staff follow at an onsite verification to reach satisfaction as to the overall validity and veracity of the data provided by an exporter. These verification procedures are documented in Attachment A of ADN No. 2016/30;[43] and
- the verification procedures that were followed by the Commission in relation to each cooperative exporter, as documented in the confidential attachment to the verification report for that exporter. The non-confidential verification visit reports for each exporter are available on the Commission's website.[44]

As noted in Attachment A of ADN No. 2016/30, information is verified by the Commission by reviewing cross-sections of data and information from the REQ to reach satisfaction as to the overall validity of that data and information. This involves interviewing relevant company personnel, examining financial records, examining information on accounting systems in real time and cross checking information provided by the interested party to other external sources. In accordance with the Commission's exception based verification reporting, the verification processes are not described in great detail in the Commission's verification report. The verification visit reports for the cooperative exporters provide information regarding the material aspects of the verification, including explanations of any material issues identified during verification.

OneSteel's specific submissions in relation to the preliminary dumping margin calculations for each exporter are addressed in greater detail below.

7.6 Dumping assessment - Nervacero (Spain)

7.6.1 Export price

In respect of Nervacero's Australian export sales during the investigation period, the Commissioner considers that:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchase of the goods by the importer was an arm's length transaction.

The export price has therefore been determined under subsection 269TAB(1)(a), as the price paid for the goods by the importer, less transport and other costs arising after exportation.

7.6.2 Normal value

The Commissioner has found sufficient volumes of domestic sales of like goods by Nervacero that were arm's length and at prices that were in the ordinary course of trade (OCOT). The Commissioner is therefore satisfied that the prices paid in respect of domestic sales of rebar by Nervacero are suitable for assessing normal value under subsection 269TAC(1).

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[43] www.adcommission.gov.au.
[44] Document 26, 27, 29, 30, 31 and 39 respectively, EPR 418.

7.6.3 Submissions received from interested parties

Nervacero: In its response to SEF 418, Nervacero submitted[45] that the determination in SEF 418 of the date of sale for Nervacero's Australian sales and domestic sales is incorrect and has affected the correctness of the dumping margin calculation. It submitted that the date of sale that should be used by the Commissioner is the date of Nervacero's pro forma invoice for Australian sales, and the date of order confirmation for domestic sales.

In response to the reasons that were provided in SEF 418 for the Commissioner's finding that the date of the invoice is the date of sale for export and domestic sales, Nervacero submitted that:

- the issuance of the pro forma invoice (for export sales) or the order confirmation (for domestic sales) represents the point in time by which all the material terms of the sales contract are established. Nothing is changed or further negotiated between the parties to the agreement after that;
- the material terms of the agreement for its Australian sales include a 'tolerance clause' that constitutes an agreement between the seller and the buyer that the delivered weight may vary from the ordered weight within a tolerance range, and an 'invoicing clause' that final invoicing and delivery will be based on the actual weight of production;
- the same arrangement is also part of the material terms of the sales agreed between Nervacero and its domestic customers based on the long-established commercial relationship between them and is confirmed each time an order confirmation is issued;
- it is not commercially practicable to know or predict the final actual weight of the goods until they are produced and weighed, and the weight will inevitably vary from the weight stated in the order. The only difference between the pro forma invoice/order confirmation and the commercial invoice for payment collection will be the actual weight of the goods. The fact that the precise actual product weight is unknown until the goods are produced is within the terms of the contract agreed between Nervacero and its customers:
- the accounting practice of recognising a sale in the accounting system once the commercial invoice is issued does not detract from the fact that the material terms of the sales agreement are established at an earlier point in time. Huge disruption would be caused on both sides of the commercial transaction if the sales terms were not established until the commercial invoice date as neither party would be bound by the sales terms until the very last minute. It is counterintuitive to use internal accounting practices as the basis to determine the date of an external sale which takes place under a sales agreement that clearly establishes the terms of the sale and is followed by the parties to the transaction;
- the reporting method that Nervacero had adopted in its REQ of allocating quarterly selling, general and administrative (SG&A) costs using sales volumes determined based on invoice date simply followed the way that the accounting data was arranged. It says nothing about the point in time at which the material terms of sales are established with customers;

[45] Document 51, EPR 418.

- Nervacero accepts that it did not put forward its view regarding the date of its sales in Investigation 264, but that does not detract from the legal position arrived at on the basis of a proper examination of the facts in the present case;
- Nervacero disagrees that it needs to provide evidence of having enforced contracts in the past in order to show that the contracts it has entered into by way of issuing pro forma invoices or order confirmations are enforceable contracts. The fact that it has sold goods to customers based on agreed terms and received payments without the need to further negotiate or enforce each and every one of those contracts, shows that the agreements were enforceable; and
- the requirements that any claim for a date of sale other than invoice date to address whether the materials cost differs between the time of the pro forma invoice/order confirmation and the invoice, and whether contracts were entered into for the material purchases, appear to relate to the adjustment to normal value for time differences under subsection 269TAC(8). This is a separate and anterior question to the initial task of determining the date of sale of a transaction.

Nervacero also made the following submissions regarding other adjustments:

- it restated its claim for a specification adjustment for difference in physical characteristics, as rebar produced to the Spanish standard has higher costs than the rebar produced to the Australian Standard because more ferroalloys are needed to achieve the required ductility; and
- it sought a downward adjustment to the normal value for the difference in the financial expenses associated with domestic and export sales. Nervacero estimated this cost difference on a quarterly basis by analysing each individual financial expense account.

Government of Spain: The Government of Spain noted[46] that Article 2.4 of the WTO Anti-Dumping Agreement provides that the comparison between the export price and the normal value shall be made 'in respect of sales made as nearly as possible at the same time', and according to footnote 8 'the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale'.

It submitted that Nervacero's exports to Australia were on a made-to-order basis while domestic sales were made to stock, and this logically meant that the time elapsed between the order confirmation and the invoice is longer in exports to Australia than in domestic sales. It submitted that it would therefore be fairer to consider the order confirmation date, not the invoice date, as the date of sale. The fact that during Investigation 264 this was not taken into account or requested by the exporter should not prevent the remedying of this issue.

European Commission: The European Commission submitted[47] that the Commission should pay due attention to the claims for adjustments for the calculation of the dumping margin.

Submission from Sanwa: In response to the reasons that were provided in SEF 418 for the Commissioner's preliminary finding that the date of the invoice is the date of sale for export and domestic sales, Sanwa submitted that:[48]

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[46] Document 46, EPR 418.
[47] Document 49, EPR 418.
[48] Document 45, EPR 418.

- the contract that it signed with the Celsa Group makes it clear that there is a weight tolerance of +/- 10 per cent. The level of certainty which any contract must satisfy so as to be enforceable is thereby met;
- Nervacero's internal accounting systems bear no relevance to whether Sanwa has an enforceable contract with Nervacero;
- Nervacero's allocation of quarterly SG&A costs using sales volumes based on invoice date in the cost to make and sell (CTMS) data that it provided in its REQ bears no relevance to whether the contract between Nervacero and Sanwa is enforceable. For accounting convenience, comparison of SG&A costs would be based on invoiced sales volume;
- in relation to the statement in SEF 418 that the invoice date was recognised as date of sale in Investigation 264 and Nervacero's practices have not changed since that time, Sanwa submitted that 'two wrongs do not make a right';
- Nervacero is being prejudiced because it contracts with reliable business partners who respect contracts. Sanwa expects that the contract will be honoured if the market goes up, and it will honour the contract if the market goes down; and
- in relation to the statement in SEF 418 that Nervacero has not addressed whether the material costs differ between the time of the pro forma invoice/order confirmation and the invoice, and whether contracts were entered into for the material purchases, scrap is the largest determinant of finished product pricing and is a volatile commodity.

OneSteel's submission: In its submission,[49] OneSteel attached information that it claimed demonstrated an instance where there were changes made to the material terms (volume and delivery port) of an Australian sale by Nervacero after the initial pro forma invoice was issued. OneSteel submitted that:

- it is not uncommon when international steel prices are volatile for offers to be reneged on, even if there are contracts in place;
- actual weight exported can vary substantially from that on the pro forma invoice and that reinforces the need for the invoice date to be set as the date of the sale, which is the date when the actual rebar weight for shipment is known and settled;
- Nervacero's submission to SEF 418 is an admission by Nervacero that for each investigation (264 and 418) it opportunistically nominated a date of sale narrative that was designed to minimise its dumping margin calculation;
- when an exporter such as Nervacero makes a pricing decision for either domestic or export sales, it does so knowing what its forward medium term costs will be. The exporter's pricing decisions are based on essentially the same costs which align in the exporter's costing system. It is not appropriate to change the date of sale to the contract date as this would misalign the cost of production for both domestic and export sales;
- the production of a commodity product like steel reinforcing bar for domestic or export sales is not the type of scenario where the use of the contract date for export sale is considered likely to have appropriate application;
- in a recent anti-dumping investigation of carbon and alloy steel wire rod from Spain, the International Trade Administration of the US Department of Commerce did not find that the evidence provided by the Celsa Group supported a departure

[49] Document 57, EPR 418.

from the established practice under the Department's regulations of applying the invoice date as the date of sale;[50] and

- the updated domestic sales listing that Nervacero had provided for the purpose of comparing domestic and export sales with order confirmation date prior to the investigation period, cannot be relied on as it was not verified by the Commission.

In a further submission,[51] OneSteel stated that:

- Nervacero was urging the Commission to consider tenuous cost differences as the basis for an adjustment for specification differences and has failed to provide evidence of how the differences affect price comparability;
- comparisons of the chemical composition and mechanical properties required by the Australian Standard and the Spanish standard UNE 36065:2000 EX6 to which the Spanish grade rebar is made indicate that the Spanish rebar grade is mechanically and physically a similar product to the 500N rebar grade exported to Australia (as supported by extracts from the relevant standards); and
- the financial expenses information (the updated domestic sales listing that included the financial expenses applicable for each claim) was provided to the Commission after that original sales listing had been verified upwards to the audited accounts. If the Commission were inclined to consider Nervacero's claim for a financial expenses based adjustment, it would have to be on the basis of unverified information.

Nervacero: In an additional submission[52] to OneSteel's submission above, Nervacero submitted that:

- the documents OneSteel refers to from the investigation by the US Department of Commerce demonstrate consistency in Nervacero's claims;
- there are submissions from another interested party who is also Nervacero's customer supporting Nervacero's claims;
- the information regarding an amended proforma invoice provided by OneSteel actually refers to a new proforma invoice with additional volume requested by the customer and delivery to a new port. The fact that a revised proforma invoice was issued in such circumstances shows that the pro forma invoice is the contract. If that was not the case there would have been no need to issue a revised proforma contract; and
- the issue for the Commission to decide is whether the additional volume should have the date of sale as the date of the revised proforma invoice, or whether the entire volume should have the date of sale as the date of the revised proforma invoice; and
- the additional quarter of sales data was provided by Nervacero on the first day of the verification visit, and is therefore entitled to be treated as reliable.

[50] Attachments G and F to Document 57, EPR 418.
[51] Document 58, EPR 418.
[52] Document 61, EPR 418.

7.6.4 The Commissioner's consideration

Date of sale

The Commissioner is satisfied that the date of invoice is the date of sale for Nervacero's domestic and export sales.

The information provided by OneSteel indicates that the material terms of Nervacero's Australian sales are subject to further negotiation and amendment after the issuance of the pro forma invoice.[53] The revised proforma invoices and original proforma invoices provided by OneSteel bear the same invoice number but the material terms recorded in the respective documents differ (the quantity in one instance and the delivery port in another). This is contrary to Nervacero's claims that the issuance of the pro forma invoice for export sales represents the point in time by which all the material terms of the sales contract are established and nothing is changed or further negotiated between the parties to the agreement after that. The submission by Nervacero that the only issue for the Commission is to decide whether the additional volume should have the date of sale as the date of the revised proforma invoice or whether the entire volume should have the date of sale as the revised proforma invoice indicates clearly that the Commissioner cannot rely on the date of the proforma invoice as being the date when material terms of the sale were established. Based on the evidence the Commissioner considers that it is not clear what the material terms of the sale (quantity and price) are on the date of the pro forma invoice. The Commissioner has had regard to the submission by Sanwa which supports Nervacero's claims in relation to the date of sale but considers that the direct evidence provided by OneSteel has more weight.

Nervacero claims that the same arrangement as apply to its Australian sales is also part of the material terms of the sales agreed between Nervacero and its domestic customers based on the long-established commercial relationship between them. As the Commissioner has found that the material terms of Nervacero's Australian sales are not settled at the time of the issuance of the pro forma invoice for the Australian sales, the Commissioner does not accept Nervacero's claims in relation to its date of sale for domestic sales. The Commissioner notes that transactions are recognised as sales in Nervacero's accounting system according to the invoice date and considers that this reflects the fact that the material terms of the sale can be subject to change until that point.

The Commissioner accepts that comparison between the export price and the normal value shall be made 'in respect of sales made as nearly as possible at the same time'. After examining the average difference in days between order confirmation and issuance of invoice for Nervacero's Australian sales and its domestic sales the Commissioner considers that in this instance using the invoice date as the date of sale allows such comparison to be made.

Specification adjustment

The Commissioner considers that based on the evidence no adjustment is warranted for differences in physical characteristics. Nervacero claimed that rebar produced to the Spanish standard has higher ductility requirements and has slightly higher costs than the rebar produced to Australian standards because more ferroalloys are needed to achieve the required ductility. OneSteel has submitted that a comparison of the rebar grades produced to the Australian Standard and the relevant European standard does not

[53] Confidential Attachment to Document 57, EPR 418.

suggest that the Spanish domestic rebar grade has superior mechanical or physical properties.

The Commissioner considers that the evidence provided by Nervacero does not establish that the difference in physical characteristics between the domestic grade rebar and the export grade rebar affects price comparability. The evidence provided indicates some difference in production cost for another producer of like goods in Spain, not Nervacero, and there appears to be no relationship between the evidence provided by Nervacero and the claimed reason for an adjustment.

Financial expenses

The Commissioner does not consider that an adjustment is warranted because the evidence does not suggest that the financial expenses affect price comparability between export and domestic sales. As noted in SEF 418, the financial expenses allocation to domestic and export sales was only calculated for the purposes of responding to the exporter questionnaire and the amount of the cost is extremely small.

Adjustments summary

The Commissioner is satisfied that there is sufficient and reliable information to justify the following adjustments. The Commissioner considers these adjustments are necessary to ensure a fair comparison of Nervacero's normal values and export prices:

Adjustment Type	Deduction/addition
Domestic credit	**Deduct** the cost of domestic credit
Domestic inland transport	**Deduct** the cost of domestic inland transport

Table 5 – Adjustments summary - Nervacero

7.6.5 Dumping margin

The dumping margin has been assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the investigation period, in accordance with subsection 269TACB(2)(a) of the Act.

The dumping margin in respect of rebar exported to Australia by Nervacero for the investigation period is **7.5 per cent.**

7.7 Dumping assessment – Power Steel (Taiwan)

7.7.1 Export price

In respect of Power Steel's Australian export sales during the investigation period, the Commissioner considers that:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchase of the goods by the importer was an arm's length transaction.

The export price has therefore been determined under subsection 269TAB(1)(a), as the price paid for the goods by the importer, less transport and other costs arising after exportation.

7.7.2 Normal value

The Commission has found sufficient volumes of domestic sales of like goods by Power Steel that were arm's length and at prices that are in the OCOT. The Commissioner is

therefore satisfied that the prices paid in respect of domestic sales of rebar by Power Steel are suitable for assessing normal value under subsection 269TAC(1).

7.7.3 Submissions from interested parties

In SEF 418, the Commissioner noted that the Commission had model matched domestic rebar that used high-alloy billet to the exported 500N grade rebar which used lower priced billet and achieved the required mechanical and chemical characteristics through a quenching and tempering process. SEF 418 noted that the Commissioner was considering whether a specification adjustment may be required to ensure a fair comparison of the price of the domestic grade rebar to the export price.

Power Steel: In its submission prior to publication of SEF 418,[54] Power Steel submitted that:

- as verified by the Commission, the cost of normal grade billet used to produce the exported rebar grade is substantially higher than the high alloy billet grade used to produce the domestic rebar grades due to the addition of high cost alloys;
- OneSteel had stated in the original Investigation 264 that an adjustment for billet grade and the corresponding method of production was warranted;
- a downwards adjustment is required to the domestic selling price of the preferred domestic model to ensure proper comparison with the exported goods; and
- to quantify the adjustment, the Commission should follow its normal practice of applying the average raw material cost difference between the normal billet used in the production of the exported goods and the high grade billet used in the production of the domestic like goods.

In its submission to SEF 418, Power Steel submitted that[55]:

- it was concerned with the Commission's reasons for not making the specification adjustments in finalising its preliminary findings in SEF 418 due to 'the verification team being unable to identify the costs associated with quenching and tempering'. This information was not requested at the visit or after the verification visit. Article 2.4 of the WTO Anti-Dumping Agreement requires that authorities indicate to the parties in question what information is necessary to ensure fair comparison without imposing an unnecessary burden of proof on those parties; and
- it reiterated its request that the Commission apply a downwards adjustment that reflected the lower billet costs associated with the exported grade.

Power Steel attached information relevant to its costs associated with the quenching and tempering process.

OneSteel: OneSteel submitted[56] that:

- the Commission had incorrectly matched the domestic rebar grades (SD 420 and SD 420W) sold by Power Steel to the goods under consideration. Rebar of grade 420 or 420W would have minimum yield strength of 420 MPa and this cannot be considered in the same strength range as the 500N export rebar grade that offers a minimum yield strength of 500Mpa;

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[54] Document 36, EPR 418.
[55] Document 48, EPR 418.
[56] Documents 47 and 58, EPR 418.

- Taiwanese grade SD490 is the closest grade for model matching that aligns with the 500N export grade;
- Taiwanese grade SD490 closely aligns to the GR80 grade rebar which is defined by the American Standard ASTM A706. Power Steel's claims that it made no sales of grade SD 490 are implausible because in a recently concluded investigation by the United States (US) Department of Commerce, the US administration identified domestic sales of GR80 grade rebar.[57] The Commission should therefore re-examine Power Steel's financial records to determine if there were domestic sales of GR80 grade rebar;
- the verification report indicates that the Commission has included products described as cut and bent products as suitable sales of like goods. The treatment of these cut and bent products as like goods on the evidence available is unreliable and the Commissioner must exclude such sales from his classification of suitable sales of like goods;
- OneSteel questioned whether the Commission identified tolled product that is manufactured on Power Steel's equipment and excluded it from the domestic sales listing. OneSteel further questioned whether the Commission excluded these costs from the calculation of domestic CTMS, and also excluded these production quantities when allocating fixed overhead costs;
- OneSteel questioned whether the Commission interrogated the magnitude of sub-standard goods produced by Power Steel to test the claim in the REQ that these quantities were negligible, and that the Commission correctly allocated these costs;
- in relation to the specification adjustment being considered by the Commissioner, OneSteel submitted that the price premium in Taiwan for grade SD 490 over rebar grades SD 420 and SD 420W was between 5 to 10 percent. In support of its claims OneSteel provided:
    - a commissioned research report prepared by an independent business consulting company into the Korean and Taiwanese steel markets from 2014; and
    - price lists from 2014 of a Taiwanese producer of like goods indicating that grade SD 490 commands a premium above the prices for grades SD 420 and SD 420W.
- while Power Steel had claimed for an adjustment for the difference between the low priced billet grade that is used to produce the 500N grade export rebar using a quenching and tempering method and the more expensive grade billet with micro alloys used to produce the rebar sold domestically, the evidence suggests that the adjustments should be upwards rather than downwards as the basis of the specification adjustment is for grade irrespective of whether it is micro-alloyed or quenched and tempered.

7.7.4 Commissioner's consideration

GR80 domestic sales

In verifying Power Steel's domestic sales listing and CTMS spreadsheet, the Commission found no evidence that grade SD 490 rebar was produced and sold by Power Steel on the domestic market for home consumption. The Commission is satisfied that grade

[57] Attachment 6.9.2.1 to Document 47, EPR 418.

GR80 rebar was not sold by Power Steel on the domestic market for home consumption during the investigation period. The Commissioner notes that the investigation period for this investigation does not overlap with the investigation period for the relevant investigation conducted by the US Department of Commerce except by three months.

Cut and bent products

On the Taiwanese domestic market, the Commission found that cut and bent product represent a very small proportion of Power Steel's total sales volume and value, and of the sales volume and value of the domestic grade rebar that was model matched.

The Commission's verification team found that for all rebar that underwent cutting and bending in a tolling arrangement, separate invoices relating to fabrication costs were issued to customers. These separate amounts were verified and as the Commission was satisfied that the products and sales values in the domestic sales listing of these transactions reflected rebar in straight form without further fabrication, the Commission amended all 'cut and bent' form descriptions to straights. The Commissioner is satisfied that these sales represented like goods and were suitable in the determination of normal value. No information was found to suggest that these sales were not arm's length.

Tolled rebar

The Commissioner is satisfied that the revenue and cost of tolled product was not included in the sales listings or the CTMS spreadsheet. The Commission also verified the production quantity related to tolled product, and that these amounts were not included in the allocation of fixed overhead costs.

Treatment of scrap and non-prime goods

The Commission verified that the quantity and revenue value of sub-standard goods generated in the production process, which are treated as scrap offsets, and the Commissioner is satisfied that it represents a negligible proportion. The Commission also verified the scrap quantity and revenue value generated by both self-produced rebar and rebar produced under a tolling arrangement, in order to accurately allocate scrap offsets to substandard goods and to the CTMS for the goods.

Specification adjustment for difference in billet grades

On consideration, the Commissioner accepts OneSteel's submission that the evidence does not support a downwards adjustment to the normal value but considers that the evidence provided by OneSteel does not support an upwards adjustment to the normal value.

The purpose of applying a specification adjustment is to address differences that are demonstrated to affect price comparability. There is no disagreement between all parties that Taiwanese grade SD 490 rebar is the comparable grade to the 500N export grade rebar due to its comparable yield strength. The SD 420 and SD 420W domestic rebar that was model matched to the 500N grade rebar in comparison, whilst still 'like goods', is a lower grade product with a lower yield strength. There is no evidence that a lower grade product would command a premium in the Taiwanese market irrespective of its production costs. The Commissioner therefore considers that no downwards adjustment is warranted to the normal value.

The evidence that OneSteel has provided in support of its claims regarding an upwards adjustment consists of a report prepared by an independent business consulting company into the Korean and Taiwanese steel markets in 2014 and price lists of a Taiwanese

producer of like goods in 2014 that included prices for the SD 490 rebar. The Commissioner does not believe that this information can be relied on to support a finding that the differences in grade affect price comparability. One reason for the unreliability of this information is that scrap and rebar prices have moved considerably since 2014 as well as during the investigation period. In the absence of reliable, current evidence that the difference in grade has a demonstrable effect on the selling price of the goods, the Commissioner does not consider that an upwards adjustment to the normal value is warranted.

Adjustments summary

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8), and considers this adjustment is necessary to ensure a fair comparison of Power Steel's normal values and export prices:

Adjustment Type	Deduction/addition
Domestic credit	**Deduct** the cost of domestic credit
Export packaging	**Add** the cost of export labels and metal tags
Export inland transport	**Add** the cost of export inland transport
Export handling fees	**Add** the cost of export handling fees

Table 6: Adjustments summary - Power Steel

7.7.5 Dumping margin

The dumping margin has been assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the investigation period, in accordance with subsection 269TACB(2)(a) of the Act.

The dumping margin in respect of rebar exported to Australia by Power Steel for the investigation period is **4.4 per cent**.

7.8 Dumping assessment – Millcon Steel (Thailand)

7.8.1 Export price

In respect of Millcon Steel's Australian export sales during the investigation period, the Commissioner considers that:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchase of the goods by the importer was an arm's length transaction.

The export price has therefore been determined under subsection 269TAB(1)(a), as the price paid for the goods by the importer, less transport and other costs arising after exportation.

7.8.2 Normal value

The Commission has found sufficient volumes of domestic sales of like goods by Millcon Steel that were arm's length and at prices that are in the OCOT. The Commissioner is therefore satisfied that the prices paid in respect of domestic sales of rebar by Millcon Steel are suitable for assessing normal value under subsection 269TAC(1).

7.8.3 Submissions from interested parties

Millcon Steel: Prior to publication of SEF 418, Millcon Steel submitted that[58]:

- purchase orders for local sales remain valid for months. As Millcon Steel only invoices when it sends the goods to the customer, the selling price at that time does not reflect the market price. As a result, the purchase order date should be used instead of invoice dates to determine the price of domestic sales;
- its selling price includes transportation costs only for delivery in Bangkok and metropolitan areas. Where the goods are collected from the factory, these transportation costs must be deducted from the purchase order price to get to an ex-works price;
- selling expenses, such as commission fees and transportation costs, incurred in the domestic market should be deducted as these are costs that Millcon Steel did not incur in the export market; and
- the export sales summary includes sales to a company that is located in Australia but that sells mostly to the Pacific Islands market. These should be excluded from the export sales summary.

In summary Millcon Steel disputed the preliminary dumping margin calculation and claimed adjustments to normal value on the grounds set out above.

Prior to the publication of SEF 418, additional confidential information was received from Millcon Steel in support of its claims that its sales to the company that supplies the Pacific Islands should be deleted from its Australian export sales listings as the cargo did not enter the Australian market.

OneSteel: In its submission to SEF 418 OneSteel submitted that[59]:

- it was concerned by Millcon Steel's belated claim that supplies of goods sold to Australia, but possibly on sold to the Pacific Islands, should be deleted from its export listings. Any subsequent decision to re-export the goods, so imported, is a separate matter;
- the verification report indicates that the Commission considered that Millcon Steel's production cost information lacked accuracy. In these circumstances the Commissioner cannot recommend to the Parliamentary Secretary that the information is reliable and as such it should be disregarded under section 43(8) of the *Customs (International Obligations) Regulation 2015* (the Regulation); and
- with respect to the verification team's attempts to allocate a number of costs to the like goods, even if this is possible under subsection 43(3) of the Regulation, the exercise of such an allocation is subject to subsection 43(4) of the Regulation which provides that '[f]or subsection (3), the information includes information given by the exporter…that demonstrates that the exporter has historically used the method of allocation'. As the allocation method was applied by the verification team, it cannot have the quality of being 'historically used' by the exporter.

[58] Document 30, EPR 418.
[59] Document 47, EPR 418.

7.8.4 Commissioner's consideration

Date of sale

In relation to Millcon Steel's claims that the date of purchase order rather than the invoice date should be used to determine the date of its domestic sale, the Commissioner notes that the Commission will generally use the date of the invoice as the date of the sale as it best reflects the material terms of sale.

The Commissioner notes that on the basis of verified information, the Commission has formed a view that the date of the invoice for Millcon Steel's domestic sales was the date on which the material terms of those sales were established. Millcon Steel has not provided the Commission with any additional information that would support a change in this view.

Transportation costs and selling expenses

In relation to Millcon Steel's claim regarding its domestic transportation costs and selling expenses, the Commissioner notes that during the onsite verification, the Commission's verification team specifically sought evidence in relation to certain items, like domestic inland transport costs, that were not provided to the team. The Commissioner therefore does not accept Millcon Steel's claims in relation to these costs.

Further, Millcon Steel did not report any commission costs in its domestic sales listing, and the Commissioner notes that Millcon stated in its response to the exporter questionnaire that '[t]here is no commissions paid for domestic sales'.[60] Without further evidence, the Commissioner cannot be certain that the commission costs shown in the financial statements relate to like goods.

Millcon Steel's request for amendment to its export sales listing

In relation to Millcon Steel's request to have certain export sales deleted from its sales listings, the Commissioner notes the information provided by Millcon Steel did not establish that the goods in question did not enter into Australia – it merely indicated on the Australian sales spreadsheet, after completion of the verification, the port that Millcon Steel claimed was the destination port outside Australia. However, notwithstanding this observation, ABF import data indicates that the goods did not enter Australia. The Commissioner has therefore accepted Millcon Steel's request for amendment to its export sales listing. The sales in question amounted to a very small proportion of the volume of the sales in the export listing.

Unreliability of Millcon Steel's CTMS and allocation of costs by the Commission

The Commissioner does not accept OneSteel's submission that he cannot recommend to the Parliamentary Secretary that Millcon Steel's CTMS for domestic sales is reliable. As noted in the verification report[61], the Commission was able to verify Millcon Steel's total CTMS upwards to audited financial statements. It was therefore satisfied that Millcon Steel's total CTMS information was relevant and complete. While all the necessary source documents were not provided for the Commission to be satisfied that production costs for rebar shown in the CTMS spreadsheet were accurate, the Commissioner is satisfied that an allocation of total production costs (as verified, and including a small amount of non-goods) to the like goods is reasonable in the circumstances, and that as a

[60] Document 12, EPR 418.
[61] Document 29, EPR 418.

result these production costs can be considered reasonably complete, relevant and accurate in the modified form.

Further, while under subsections 43(3) and 43(4) of the Regulation the Minister must take into account the information available to him or her about the allocation of costs in relation to like goods (including information given by the exporter that demonstrates that the exporter has historically used the method of allocation) there is nothing preventing the Commissioner and Minister from taking into account other information available to work out an allocation of such costs. The Commissioner and Minister are not limited to the information provided by the exporter about historical cost allocations. As a result, the Commissioner considers that Millcon Steel's modified production costs can be relied on for performance of the OCOT test.

Adjustments summary

The Commission is satisfied that there is sufficient and reliable information to justify the following adjustments, in accordance with subsection 269TAC(8) of the Act, and considers these adjustments are necessary to ensure a fair comparison of Millcon Steel's normal values and export prices:

Adjustment Type	Deduction/addition
Domestic credit	**Deduct** the cost of domestic credit charges
Export inland freight	**Add** the cost of export inland freight
Export handling	**Add** the cost of export handling

Table 7: Adjustments summary - Millcon Steel

7.8.5 Dumping margin

The dumping margin has been assessed by comparing weighted average Australian export prices to the corresponding quarterly weighted average normal value for the investigation period, in accordance with subsection 269TACB(2)(a) of the Act. In SEF 418 the Commissioner had proposed a preliminary dumping margin of 9.6 per cent. Following the Commissioner's acceptance of Millcon Steel's request for amendment to its export sales listing, the dumping margin changed.

The dumping margin in respect of rebar exported to Australia by Millcon Steel for the investigation period is **9.3 per cent**.

7.9 Uncooperative and all other exporters

The Commission has calculated preliminary dumping margins for uncooperative and all other exporters based on a normal value determined under subsection 269TAC(6) and an export price under subsection 269TAB(3), as required by subsection 269TACAB(1).

7.9.1 Greece

As noted previously, the Commissioner has deemed Sidenor to be an uncooperative exporter under subsection 269T(1).

To determine the normal value for Sidenor and all other exporters from Greece, the Commission has had regard to the information provided in the application from OneSteel, which the Commission considers to be the most reliable information available to it. To determine the export price, the Commission has had regard to the weighted average export price of exports from Greece in the investigation period, as reported in the ABF

database. The preliminary dumping margin for uncooperative and all other exporters from Greece is **42.1 per cent.**

1.1.1.1 Submissions from interested parties

Sidenor: Sidenor submitted[62] that while it did not give the Commission information considered to be relevant to the investigation within a reasonable period, it had written to the Commission and provided reasons for its inability to respond. A failure to respond does not give the Commissioner the ability to penalise the exporter. It was concerned to find that the dumping margin for Sidenor was 42.1 per cent. The dumping margin worked out in CON 418 was 27.3 per cent and CON 418 stated that the dumping margin had been worked out using the applicant's normal value and the weighted average free on board (FOB) price from the DIBP import database, which was the same method used to calculate the 42.1 per cent dumping margin. It is not clear how two calculations using the same data can diverge so much. It objected to the determination of its dumping margin at 42.1 per cent.

Neumann Steel: Neumann Steel similarly queried[63] the increase in dumping margin in SEF 418 to what was stated in CON 418.

7.9.1.1 Commissioner's consideration

The Commissioner has considered all relevant information when working out the normal value for uncooperative and other exporters from Greece. The normal value for Greece in OneSteel's application was based on cost-economics modelling for a Greek domestic producer of like goods (using annual averages for 2016). Selling and administration costs were based on the six-months to June 2015 results for the 'Steel and Steel Pipes' division of Sidenor's parent company Viohalco. The Commissioner is satisfied that the information provided by OneSteel is reliable and accordingly has based his calculations on this information. The calculation of the dumping margin has changed as the Commissioner reconsidered the ABF data since CON 418 was published. The Commission had more time to analyse and interpret the ABF data and correct errors. The Commission found that the export price should have been determined differently, which results in a different dumping margin. The Commissioner does not agree that the change in dumping margin is for punitive reasons.

7.9.2 Indonesia

Section 269TDA(6) provides that the fact that a dumping margin in relation to a particular exporter is less than 2 per cent does not prevent exports by that exporter being taken into account for the purposes of working out the total volume of exports that have been exported from a country of export.

Accordingly, though the Commissioner has terminated part of this investigation so far as it relates to exporters Ispat and Putra Baja Deli, the Commissioner has considered the volume exported by Ispat and Putra Baja Deli during the investigation period in working out the volume of dumped imports from Indonesia during the investigation period. The Commission has confirmed that the total volume of imports from Indonesia including exports by Putra Baja Deli and Ispat exceeds 3 per cent of the total volume of rebar imports during the investigation period.

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[62] Document 52, EPR 418.
[63] Document 53, EPR 418.

The Commission has therefore determined an uncooperative and all other exporter rate for Indonesia by having regard to the highest weighted average normal value for all cooperating exporters in Indonesia excluding all downwards adjustments under subsection 269TAC(8). To determine the export price, the Commission has had regard to the lowest weighted average export price of cooperating Indonesian exporters.

The preliminary dumping margin for uncooperative and all other exporters from Indonesia is **9.3 per cent.**

7.9.3 Thailand

The Commission has determined an uncooperative and all other exporter rate for Thailand by having regard to the verified weighted average normal value excluding all downwards adjustments under subsection 269TAC(8) and the weighted average export price of the cooperating exporter from Thailand.

The preliminary dumping margin for uncooperative and all other exporters from Thailand is **11.9 per cent**.

The Commission's calculations of the uncooperative and all other exporter dumping margins for Greece, Indonesia and Thailand is at **Confidential Appendix 2.**

7.10 Volume of dumped imports

Subsection 269TDA(3) provides that the Commissioner must terminate an investigation in so far as it relates to a country if he is satisfied that the volume of dumped goods subject to the investigation is negligible. Subsection 26TDA(4) provides that the volume of dumped goods is taken to be a negligible volume from a particular country if it is less than three per cent when expressed as a total of the Australian import volume.

The Commissioner is satisfied that the volumes of dumped exports (including negligibly dumped goods) from each subject country (and exporters) is above three per cent, when expressed as a total of the Australian import volume.

The Commission's analysis of the volume of dumped imports is at **Confidential Appendix 1**.

8 ECONOMIC CONDITION OF THE INDUSTRY

8.1 Finding

Having regard to the information contained in the application and the information obtained and verified during this investigation, the Commissioner is satisfied that the Australian industry has experienced injury in the form of:

- loss of market share;
- price suppression;
- reduced profits and profitability; and
- reduced return on investment.

8.2 Legislative framework

Under sections 269TG, one of the matters that the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the Australian industry has experienced material injury.

The matters that may be considered in determining whether the industry has suffered material injury are set out in section 269TAE.

8.3 OneSteel's injury claims

In its application, OneSteel claimed that it had experienced injury during the investigation period in the form of:

- price depression;
- price suppression;
- price undercutting;
- lost market share;
- lost sales volume;
- loss of revenue;
- loss of profits;
- loss of profitability;
- reduced capital investment;
- reduced asset utilisation;
- reduced employment and wages; and
- growing stock-on-hand

8.4 Approach to injury analysis

In performing its analysis regarding the economic condition of the Australian industry during the injury analysis period, the Commission has relied on verified production, sales and cost data provided by OneSteel, ABF import data and verified data provided by exporters and importers.

8.4.1 Related party transactions

A significant proportion of OneSteel's sales of rebar during the investigation period were to OneSteel's related entities. In its application, OneSteel stated that it maintains a market based pricing policy for external and internal customers. It advised that:

- its unrelated customers provide both verbal and written feedback on import prices during negotiations;

- it negotiates prices with its unrelated customers in advance, on a monthly basis, based on import price offers; and
- its prices to its unrelated customers forms the basis for its monthly prices to its related customers.

The Commission's analysis of OneSteel's domestic sales data indicates that the actual realised weighted average prices to unrelated customers followed a comparable average weighted pricing trend to OneSteel's related entities over the investigation period. The analysis identified that the average weighted pricing by OneSteel to unrelated customers, at times, was at or below pricing to related entities. The analysis further indicated that sales to related party customers were subject to similar delivery and payment terms as sales to unrelated customers.

On the basis of verified data provided by OneSteel and the Commission's analysis, the Commissioner is satisfied that OneSteel's sales to its related entities are at arm's length sales and it is appropriate to include those sales in the Commission's injury analysis.

8.4.1.1 Submission from interested parties

Neumann Steel: Neumann Steel submitted[64] that the finding that OneSteel's sales to related parties is at injurious prices by virtue of an artificial link with import offers is not supported by fact. Neumann Steel queried the relevance of the arm's length finding in relation to OneSteel's sales to its related entities and noted that it was not apparent that the test under section 269TAA had been applied. It also submitted that OneSteel operates in the context of a larger group and that decisions may be made in favour of the group at the cost of OneSteel's pricing mechanism to its unrelated entities.

Nervacero: Nervacero submitted[65] that given that a significant portion of OneSteel's sales are to related parties and these sales are not subject to direct competition, it should at least have the ability to sell to its related customers at breakeven prices. It suggested that OneSteel may be choosing to make a loss at the manufacturing level, or at least be focussed on not making a profit so long as the price support that it gives its related entities delivers a profit to the group at a downstream level. It stated that it is essential for the Commission to examine the performance of OneSteel's related entities to form a comprehensive view as to OneSteel's performance with respect to the goods under consideration.

8.4.1.2 Commissioner's consideration

The Commissioner has considered whether OneSteel's related party transactions are at arm's length in order to assess whether those sales are suitable to include in its material injury assessment of OneSteel's injury claims.

The Commissioner has considered the manner in which OneSteel's prices for its related entities are determined and is satisfied that OneSteel's prices for its related entities are based on prices negotiated with its unrelated entities, which in turn are influenced by import offers. Over the investigation period, OneSteel's rebar prices to its related entities was comparable to its prices to its unrelated entities, indicating that those prices are not influenced by the commercial relationship between OneSteel and those entities.[66] The

[64] Document 53, EPR 418
[65] Document 50, EPR 418.
[66] Document 25, EPR 418.

Commissioner therefore considers that OneSteel's sales to its related entities are suitable for the purposes of assessing injury.

Given the Commissioner's finding regarding the arm's length nature of OneSteel's related party transactions, the Commissioner does not consider it is necessary to undertake an examination of OneSteel's related entities that operate in the downstream fabricated rebar market.

8.4.2 Injury assessment according to product form

In addition to an industry wide assessment, the Commission has also where appropriate conducted a product specific analysis by form (i.e. rebar straights and rebar coils). The Commission considers that an analysis according to product form provides a more complete understanding of the relationship between any injury and the alleged dumping because:

- submissions to the Commission[67] have claimed a lack of substitutability and different markets for rebar coils and straights. The Commission tested these claims through its product specific analysis, as well as by assessing the market as a whole by comparing prices and substitutability across all product forms. The Commission's consideration of substitutability has been discussed at Chapter 4 of this report. The Commission's comparison of prices of rebar straights and rebar coils is discussed further at section 9.3.4.1 of this report; and
- in this investigation, the import sources for rebar straights and rebar coils are exclusive to each other, with exporters from Greece and Spain supplying rebar coils and exporters from Indonesia, Taiwan and Thailand supplying rebar straights. The supply of rebar straights and coils from overseas is likely to have been differently impacted by the imposition of measures as a result of Investigations 264 and 300 and the revocation of measures against Spanish exporter Nervacero in July 2016 as a consequence of the ADRP's decision in its Report No. 34.

The conclusions from the sectoral analysis have been related back to the Australian rebar market and the Australian industry as a whole to make an overall assessment of whether dumping has caused material injury to the Australian industry as a whole. The Commissioner notes that there is nothing precluding the Commission from undertaking a sectoral analysis if it yields a more thorough analysis and understanding, and the performance of such an analysis does not indicate that the Commissioner formed a view that the conditions of competition are different for rebar coils and rebar straights..

8.4.2.1 Submissions from interested parties

The Commissioner notes that submissions to SEF 418 from Nervacero[68] and Sidenor[69] have suggested that the Commission's more detailed assessment according to product type is at odds with its cumulation of exports from the countries subject to this investigation for the purposes of assessing whether injury to OneSteel has been caused by dumping. The Commissioner's consideration of these submissions is at section 9.3.4 of this report.

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[67] Documents 34, 40, 50 and 52, EPR 418.
[68] Document 50, EPR 418.
[69] Document 52, EPR 418.

8.4.3 OneSteel's own imports of rebar

In its application OneSteel advised that it is an exclusive Australian distributor of rebar manufactured by an exporter subject to this investigation and that during the investigation period it had supplemented its supply with imported rebar. Various submissions have noted that OneSteel imported 20 mm rebar coil during the investigation period.

On the basis of the analysis of ABF data and verified data provided by OneSteel and the relevant exporters, the Commissioner considers that the volume of OneSteel's domestic sales of imported rebar does not represent a materially significant proportion of the overall Australian rebar market. The Commission's analysis of import volumes is at **Confidential Appendix 1.**

For the purposes of assessing volume injury, the Commissioner has separately identified OneSteel's volume of domestic sales of imported rebar. As OneSteel's own imports cannot be considered to have caused it injury, for the purposes of assessing injury factors, the Commission has disregarded OneSteel's domestic sales of imported rebar.

8.5 Volume effects

In relation to volume effects, OneSteel claims that while it has been able to maintain sales volumes across the investigation period in trend terms, it has lost sales volume to dumped imports and this is reflected in its loss of market share over the investigation period.

8.5.1 Sales volume

Figure 3 below shows OneSteel's total domestic sales volume for rebar in the Australian market since 2013 relative to the overall size of the market. It can be seen that OneSteel's sales volumes have shown a steady increase over the injury analysis period. OneSteel's sales volume in 2016 showed an approximately 45 per cent increase as compared to its sales volumes in 2013.

As noted previously, the Australian market for rebar increased by approximately 25 per cent in 2016 as compared to 2015. During this time OneSteel's sales volumes increased by approximately 18 per cent.

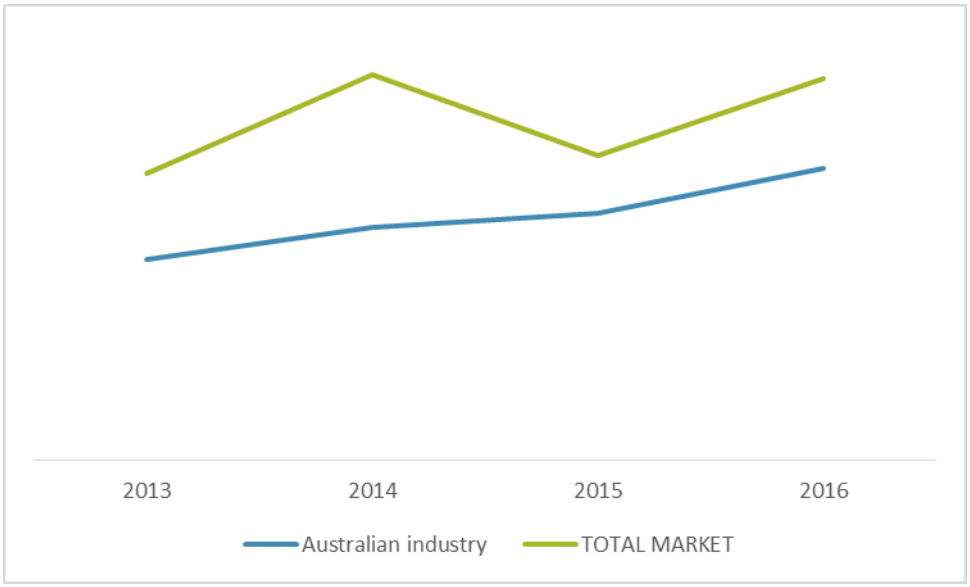

Figure 3: OneSteel's total domestic sales volume for rebar relative to the size of the market (in tonnes)

8.5.2 Market share

Figure 4 below depicts the market share of Australian industry and imports from countries subject to measures, countries subject to this investigation and other countries during the injury analysis period.

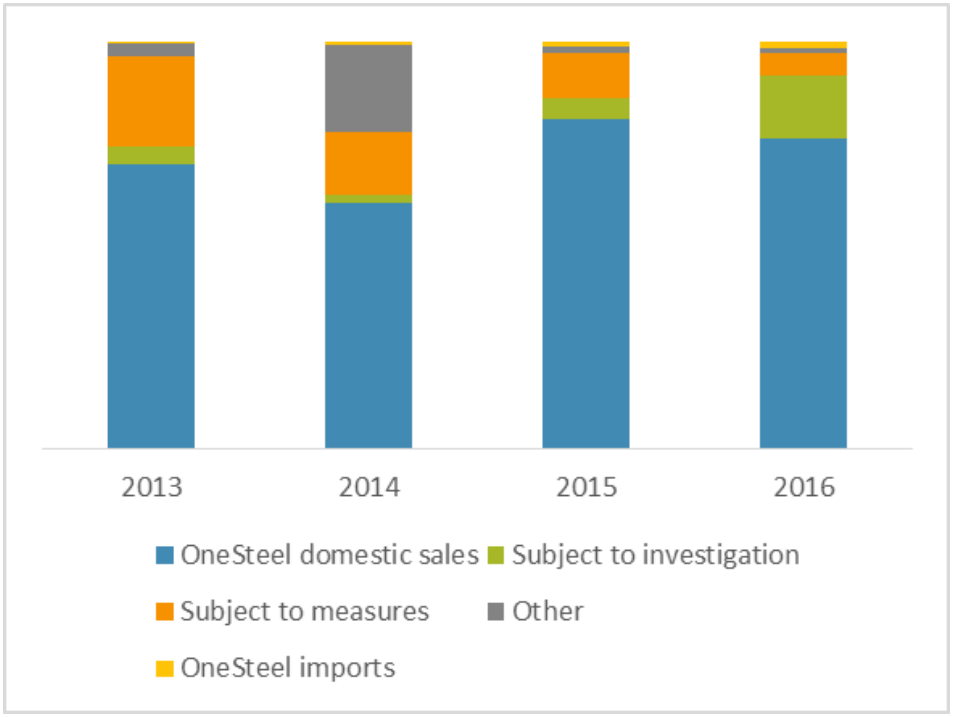

Figure 4: Market share – Australian rebar market

All references in the Figure 4 to OneSteel's domestic sales refers to OneSteel sales of its own production of rebar.

Figure 4 in summary demonstrates that with some fluctuations, Australian rebar market shares have:

- declined in 2016 for the Australian industry;

- increased significantly in 2016 for subject countries (which include Ispat and Putra Baja Deli); and
- declined in 2016 for countries that are not subject to this investigation, including countries that are currently subject to measures.

The Commissioner has separately considered the effect of the volume of exports to Australia by Ispat and Putra Baja Deli and has confirmed that the decline in market share experienced by OneSteel is still evident when the exports from these two exporters during the investigation period are excluded from the analysis. This is discussed further at section 9.4.1 of this report.

The Commission's analysis indicates that the volume of imports from countries currently subject to measures fell from 22 per cent of the market in 2013 to 6 per cent of the market in 2016. During this time, the volume of imports from the subject countries rose from 5 per cent of the overall market in 2013 to 17 per cent of the market in 2016.

The Commission has conducted an analysis of import trends during the injury analysis period. The analysis is discussed further at section 9.4.2. The analysis indicates that:

- there was a notable increase in exports from Greece, Indonesia, Thailand and Taiwan (by Power Steel) following the imposition of measures as a result of Investigation 300 in April 2016, and
- prior to the revocation of measures against it (in July 2016), Nervacero's volume of exports were inconsistent. Following the revocation of measures against it, Nervacero's volume of exports increased significantly.

8.5.3 Submissions from interested parties

A number of submissions questioned the materiality of the reduced market share experienced by OneSteel. The Commissioner's consideration of these submissions is at section 9.4 of this report

Nervacero: Nervacero in its submission[70] queried whether OneSteel's imported products had been taken into account in assessing its overall market share.

8.5.4 Commissioner's consideration

The Commissioner confirms that the Commission also assessed OneSteel's market share by including OneSteel's imports of rebar and that the decline in market share in 2016 was still evident. This is consistent with the Commission's finding that OneSteel's imports of rebar amounted to an insignificant proportion of the overall rebar market during the investigation period.

8.5.5 Conclusion – volume effects

The Commissioner is satisfied that the evidence outlined above supports a finding that while OneSteel's overall sales volume may have increased over the investigation period, it has lost market share to imports from the subject countries found to be dumping in the Australian rebar market over the investigation period. The Commissioner's consideration of the impact of exports from Ispat and Putra Baja Deli on volume effects is at sections 9.4.1 and 9.8.3 of this report.

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[70] Document 50, EPR 418.

Further analysis of the Commission's assessment of volume injury is contained in **Confidential Appendix 1.**

8.6 Price injury

In its application OneSteel claimed that there was a close correlation between the price of imports from the subject countries and OneSteel's prices for rebar straights and rebar coils.

In relation to rebar straights, OneSteel claimed that in the September 2016 quarter it was able to increase prices sufficiently to cover its unit CTMS for the goods as overseas exporters and OneSteel increased their prices as compared to the June 2016 quarter; however by the December 2016 quarter, the export prices of dumped imports declined and in turn OneSteel had to reduce its domestic price for like goods despite no change in its costs; in the March 2017 quarter, despite a sharp increase in its costs, it was unable to increase its prices as the export prices of imports from the subject countries remained stable.

In relation to rebar coils, OneSteel claimed that the low price cycle pursued by exporters of rebar coil from the subject countries influenced its inability to raise its prices since the December 2015 quarter in spite of its stable or increasing costs; in the March 2017 quarter, despite a sharp increase in its costs, it was unable to increase its prices as the export prices of imports from the subject countries remained stable.

8.6.1 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

The Commission has compared OneSteel's unit cost to make and sell (CTMS) with its unit revenue over the injury analysis period.

Figure 5 below illustrates movements in OneSteel's quarterly unit CTMS and unit revenue for rebar during the injury analysis period.

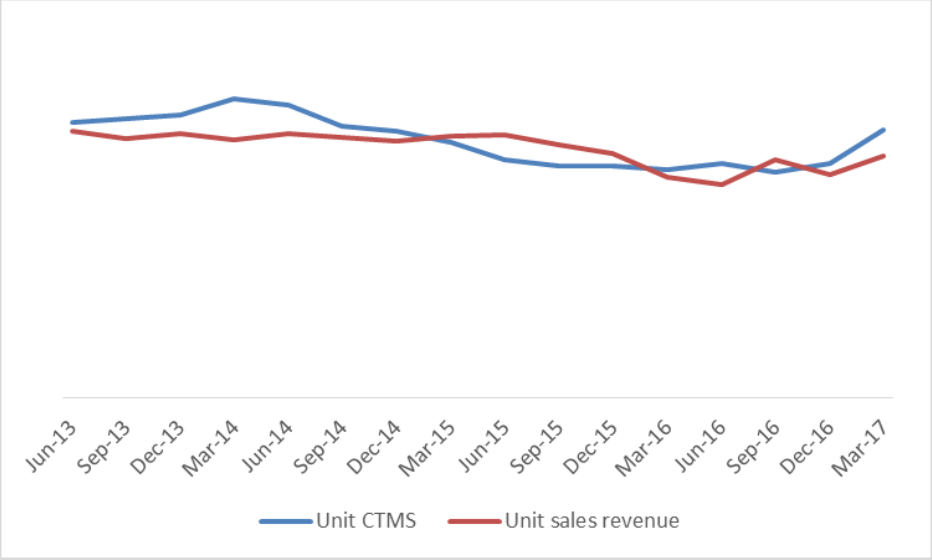

Figure 5: Unit CTMS and unit revenue

Figure 5 indicates that OneSteel's unit CTMS and unit sales revenue showed a declining trend over the injury analysis period. Though there was an increase in both CTMS and unit sales revenue in the last two quarters of the investigation period, the amount by which the unit CTMS exceeded the unit sales revenue increased during these two quarters.

8.6.2 Sectoral analysis

The Commission has compared OneSteel's 'like goods' unit CTMS and unit sales revenue according to product form (rebar straights and coils) and notes that:

- OneSteel's unit CTMS and unit revenue showed a declining trend for both rebar straights and coils over the injury analysis period, with increases in the last two quarters of the investigation period; and
- the amount by which the unit CTMS exceeded the unit revenue in the last two quarters of the investigation period was greater for rebar coils as compared to rebar straights.

The Commission's analysis of price effects is at **Confidential Appendix 3.**

8.6.3 Submissions from interested parties

A number of submissions disagreed with the Commissioner's finding that OneSteel had experienced price injury. The submissions cited a number of factors that could have affected OneSteel's ability or inability to raise its prices over its costs and claimed that these factors had not been fully examined by the Commission. The Commissioner's consideration of these submissions is at section 9.5 of this report.

OneSteel: OneSteel agreed[71] with the Commissioner's assessment that it had suffered injury in the form of price suppression but stated that the Commissioner had neglected to account for the price depression experienced by it during the investigation period.

8.6.4 Commissioner's consideration

The evidence indicates that OneSteel was able to raise its prices during the investigation period. However, the Commission has found that as import offers from the subject countries found to have been dumping exerted a downward pressure on OneSteel's prices, price increases that would otherwise have occurred were prevented. The Commissioner considers that this is evidence of price suppression rather than price depression. The Commissioner's findings regarding the causative effect of the dumped prices of goods from the subject countries is discussed in greater detail at section 9.5 of this report.

8.6.5 Conclusion – price effects

The Commissioner is satisfied on the basis of the analysis depicted above that OneSteel experienced price suppression as it was unable to consistently charge above its cost to make and sell like goods during the investigation period. The Commissioner's consideration of OneSteel's claims (that its inability to increase its unit revenue over its unit cost to make and sell during the investigation period was due to the prices of dumped imports from the subject countries found to be dumping) is at section 9.5 of this report.

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[71] Document 47, EPR 418.

The Commissioner's consideration of the impact of exports from Ispat and Putra Baja Deli on price effects is at section 9.8.3 of this report.

8.7 Profits and profitability

In its application, OneSteel claimed that it had experienced injury during the investigation period in the form of loss of profits and reduced profitability. As noted above, OneSteel claims that its loss of profits and reduced profitability during the investigation period were due to the prices and volume of imports from the subject countries.

Subsection 269TAE(3)(e) refers to the level of profits earned in an industry as a relevant economic factor that may be considered in assessing material injury.

Figure 6 below illustrates OneSteel's profits and profitability over the injury analysis period.

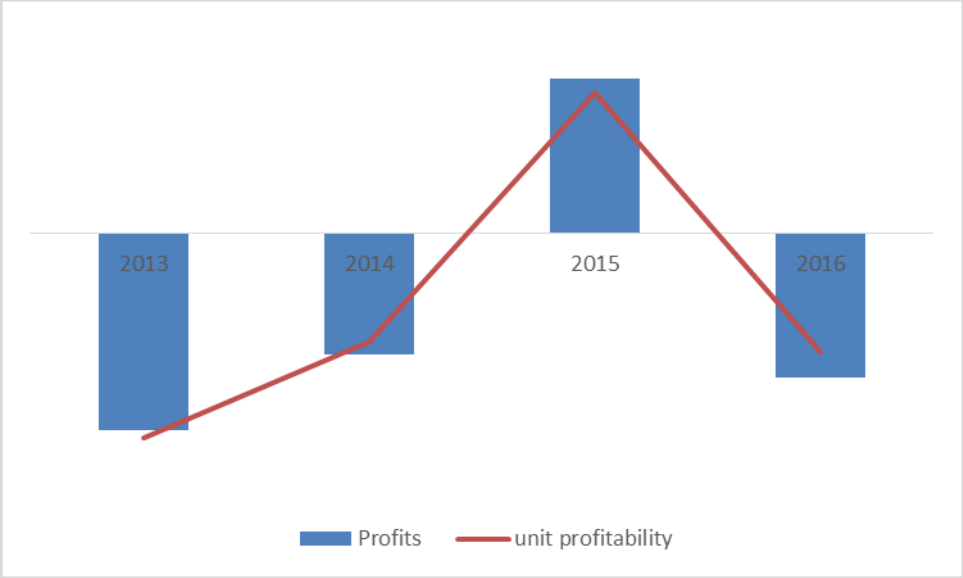

Figure 6: OneSteel's profits and profitability

Figure 6 above shows that OneSteel was unprofitable in 2013 and 2014. Following a period of improvement in 2015, profits and profitability again deteriorated in the investigation period.

8.7.1 Sectoral analysis

The Commission has conducted a sectoral analysis of OneSteel's profits and profitability according to product form (rebar straights and coils) and notes that:

- OneSteel was selling rebar straights at a loss in 2013 and 2014. Following a period of improvement in 2015, profits and profitability again deteriorated in the investigation period.
- OneSteel was selling rebar coils at a loss throughout the injury analysis period, with a slight improvement in 2015, followed by a deterioration in the investigation period.

The Commission's sectoral analysis of OneSteel's profits and profitability is at **Confidential Appendix 3**.

8.7.2 Conclusion – profits and profitability

The Commissioner considers that the Australian industry has experienced reduced profits and profitability during the investigation period. The Commissioner's consideration as to whether OneSteel's reduced profits and profitability have been caused by imports from the subject countries that have been found to be dumping is at section 9.6 of this report. The Commissioner's consideration of the impact of exports from Ispat and Putra Baja Deli on profits and profitability is at section 9.8.3 of this report.

8.8 Other economic factors

OneSteel completed Confidential Appendix A7 to its application for the injury analysis period to support its claims in terms of certain other injury factors.

The Commissioner's assessment of other injury factors is outlined below.

8.8.1 Capital investment

OneSteel provided data from its financial reporting system for its capital investment expenditure over the injury analysis period. It allocated the total amount to the like goods based on the percentage of like goods production. The data provided was for Financial Year (FY) 2013 to FY 2016 and for Calendar Year (CY) 2016. In addition quarterly data was provided for the September 2015 to March 2017 quarters. The data indicated that there was a decline in OneSteel's capital investment in the FYs 2014, 2015 and 2016. However capital investment showed an upward trend over the investigation period.

8.8.2 Value of assets allocated to the production of like goods

OneSteel provided data from its financial reporting system indicating the property, plant and equipment asset total that was allocated to the production of like goods. The data provided was for FYs 2013 to FY 2016 and for CY 2016. In addition quarterly data was provided for the September 2015 to March 2017 quarters. The data indicated that the value of the total asset allocated to the production of rebar has declined overall during the injury analysis period and has shown a declining trend during investigation period.

8.8.3 Return on investment

To demonstrate its claim of reduced return on investment, OneSteel divided its net gain or loss from its domestic sales of like goods by the 'like goods' asset, which was allocated based on production volumes of the like goods. The data provided was for FY 2013 to FY 2016 and for CY 2016. In addition quarterly data was provided for the September 2015 to March 2017 quarters. The data indicated that OneSteel's return on investment showed an improvement in the FY 2015 as compared to the previous two financial years but showed a slight decline in FY 2016. The quarterly data since September 2015 indicated that OneSteel's return on investment deteriorated since the September 2015 quarter, showing a brief improvement in the September 2016 quarter but again deteriorating after that for the rest of the investigation period. The Commission notes that this is consistent with the Commission's findings regarding OneSteel's decline in profits and profitability during the investigation period. Figure 7 below depicts OneSteel's return on investment from the September 2015 quarter.

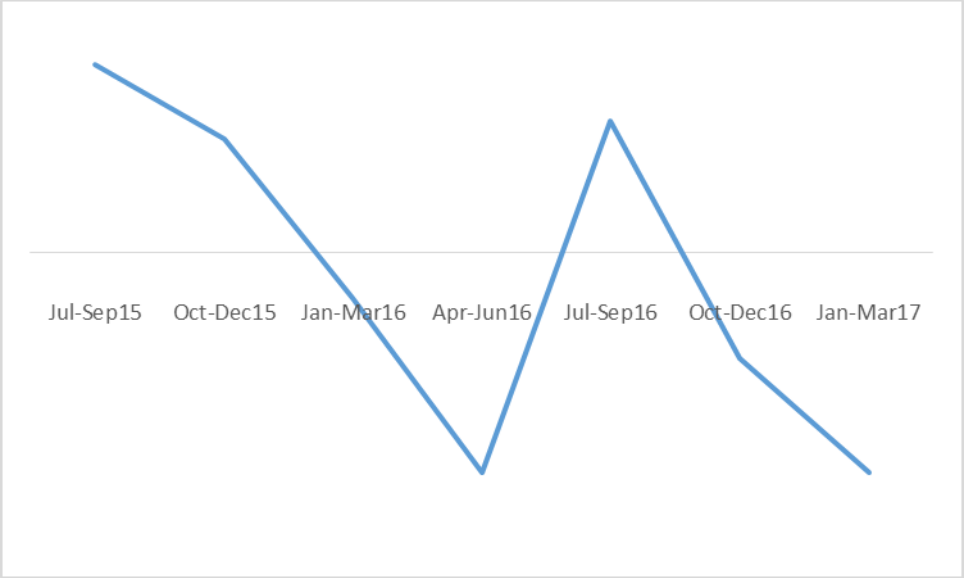

Figure 7: OneSteel's return on investment

8.8.4 Research and Development Expenditure

OneSteel has not claimed injury due to reduced research and development expenditure. It provided research and expenditure data for FYs 2013 to FY 2016 and for CY 2016. The data indicated an increase in research and development expenditure since FY 2015.

8.8.5 Capacity and capacity utilisation

OneSteel has not claimed injury due to reduced capacity and capacity utilisation over the injury analysis period. OneSteel calculated the capacity of its mills as available hours multiplied by tonnes per hour. It based its assumptions regarding maximum capacity on available hours if the mills were run 24 hours a day, 7 days a week, and 4.3 weeks a month, less the time taken for maintenance activities. It based its calculation of tonnes per hour on average actual throughput tonnes for the current product mix by actual shift hours. The data provided was in relation to FYs 2013 to 2016 and for CY 2016. In addition quarterly data was provided for the September 2015 to March 2017 quarters. The Commissioner consider that OneSteel's capacity, and capacity utilisation for the production of like goods, has improved slightly over the injury analysis period.

8.8.6 Employment numbers

OneSteel reported a decline in its employment numbers and wages expenses across the injury analysis period. On the basis of verified data provided by OneSteel, the Commission found that the employment headcount allocated to like goods has risen over the injury analysis period and its expenditure on wages for the production of like goods has likewise increased.

8.8.7 Productivity

OneSteel has not claimed injury due to reduced productivity. On the basis of verified data the Commission found that with some fluctuations, OneSteel's productivity has improved over the injury analysis period. The Commissioner notes that the data provided by OneSteel in relation to productivity was in relation to its overall productivity for all products.

8.8.8 Revenue

Consistent with its findings regarding OneSteel's sales volumes over the injury analysis period, OneSteel's verified data indicated that its rebar revenue has increased over the injury analysis period.

8.8.9 Growing stock on hand

OneSteel provided data that indicated growing rebar stock in hand from the September 2015 quarter. The data provided for the injury analysis period was for all products and is inconclusive as to rebar.

8.8.10 Cash flow measures

Accounts receivable increased over the injury analysis period.

8.8.11 Submissions from interested parties

European Commission: The European Commission submitted[72] that the Commission had failed to adequately disclose and evaluate all relevant factors that had a bearing on the condition of Australian industry as specified under Article 3.4 of the WTO Anti-Dumping Agreement.

Government of Spain: The Government of Spain specifically asked[73] for indexed data on all the factors that were confirmed by the Commissioner as demonstrating the existence of injury to Australian industry.

8.8.12 Commissioner's consideration

The Commissioner notes that subsection 269TAE(3) sets out the relevant economic factors in relation to an Australian industry. The Commissioner has considered all relevant economic factors bearing on the state of Australian industry and the Commissioner's findings are discussed above.

OneSteel's application provided indexed data in support of its injury claims. OneSteel's indexed data summarised the confidential information regarding injury indicators that it provided to the Commission. The Commission has depicted in graphs the data for all factors that the Commission confirmed as demonstrating injury to Australian industry. The Commissioner considers that the information provided enables an understanding of the trends and patterns for particular indicators so that interested parties can understand the behaviour of those indicators over the injury analysis period.

8.8.13 Conclusion

The Commissioner considers that Australian industry producing like goods has experienced injury in the form reduced return on investment. The Commissioner's consideration of the materiality of this injury indicator is at section 9.7 of this report. The Commissioner considers that while some of the economic factors discussed in this section (section 8.8) were positive indicators, this does not detract from the Commissioner's finding of injury summarised below.

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[72] Document 49, EPR 418.
[73] Document 46, EPR 418.

8.9 The Commissioner's assessment

Based on the analysis in this chapter, the Commissioner considers that Australian industry producing like goods, has experienced injury in form of:

- loss of market share;
- price suppression;
- reduced profits and profitability; and
- reduced return on investment.

9 HAS DUMPING CAUSED MATERIAL INJURY?

9.1 Finding

The Commissioner has found that rebar exported to Australia from Greece, Spain (by Nervacero), Taiwan (by Power Steel), Thailand and Indonesia (except for exports by Ispat and Putra Baja Deli) at dumped prices has caused material injury to the Australian industry producing like goods.

The Commissioner has analysed and assessed causation factors and considered submissions by interested parties, and has determined that OneSteel suffered material injury due to the dumped imports from the subject countries found to be dumping in the form of:

- reduced market share;
- price suppression;
- reduced profits and profitability; and
- reduced return on investment.

The Commissioner considers that the injury caused by dumping was not immaterial, insubstantial or insignificant and was therefore material.

9.2 Introduction

As outlined in chapters 6, 7 and 8, the Commission has established that during the investigation period, rebar was exported to Australia from the subject countries at dumped prices, that the margin of dumping was not negligible (except for exports by Putra Baja Deli and Ispat who were found to be dumping but by negligible margins), and that the Australian industry has suffered injury.

Section 269TAE outlines the factors that the Parliamentary Secretary may take into account in determining whether, for the purposes of section 269TG, material injury to an Australian industry has been, or is being caused or threatened by the dumped goods.

This chapter examines whether exports of rebar to Australia from the subject countries found to be dumping have caused material injury to the Australian industry producing like goods.

In assessing material injury, the Commissioner has had regard to the Ministerial Direction on Material Injury 2012 (Material Injury Direction).[74]

9.3 Cumulative effects of exportations

Before considering whether injury to OneSteel has been caused by dumping, the Commissioner has first considered whether this analysis should be undertaken on a cumulative basis.

Subsection 269TAE(2C) sets out the requirements for assessing the cumulative effects of goods exported to Australia from different countries. Where exports from more than one country are the subject of dumping investigations resulting from applications lodged on

[74] Ministerial Direction on Material Injury 2012, 27 April 2012, available at www.adcomission.gov.au

the same day (as is the case here), the Parliamentary Secretary should cumulatively assess the effects of such imports if:

- the margin of dumping established for exporters in each country is not negligible;[75]
- the volume of imports from each country is not negligible;[76] and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and the imported goods and like goods that are domestically produced.[77]

9.3.1 Size of the dumping margins

The dumping margins for the subject countries and exporters are set out in Table 2 (at section 1.9.5) and at Chapter 6 of this report. The Commissioner notes that the dumping margins in respect of the goods that have been exported to Australia from the subject countries at dumped prices are not negligible (except as relates to Indonesian exporters Putra Baja Deli and Ispat against whom this investigation has been terminated).

9.3.2 Volume of imports

The Commissioner found that, during the investigation period, the volume of the goods exported to Australia from the subject countries i.e. Greece, Indonesia and Thailand, and exporters i.e. Nervacero and Power Steel, each individually exceeded 3 per cent of the total Australian rebar import volume. Therefore the volume of these imports are not negligible under subsection 269TDA(4).

9.3.3 Conditions of competition

The Commissioner considers that the conditions of competition between the imported goods, and between those goods and like goods that are domestically produced are such that it is appropriate to consider the cumulative effect of the dumped imports from the subject countries.

The Commissioner considers that rebar is a commodity product and irrespective of product type, price is a major condition of competition between the imported goods from each country and between the imported goods and the domestically produced goods. Sections 3.5, 4.1 and 4.2 of this report discussed the commercial and functional substitutability of the imported goods (in coil or straight form) with the goods produced domestically. Goods produced by all exporters subject to this investigation and the Australian industry have similar specifications and common end-uses. The verified exporter and importer data indicates a willingness by parties in the supply chain who are at the same level of trade to switch between import sources. The close price competition that exists in the market suggests that product differentiation is not recognised by the market.

9.3.4 Submissions from interested parties

Nervacero: In its submission prior to publication of SEF 418[78] Nervacero stated that:

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[75] Pursuant to subsection 269TAE(2C)(c).
[76] Pursuant to subsection 269TAE(2C)(d).
[77] Pursuant to subsection 269TAE(2C)(e).
[78] Document 34, EPR 418.

- its spooled rebar coils have different core characteristics to the rebar coils produced by OneSteel and compete on product differentiation rather than price from the perspective of the end-users, and
- rebar coils and rebar straights are different products with their own distinct markets.

In its submission to SEF 418[79] Nervacero stated that:

- the Commission's proposed cumulation of all imports was at odds with Australian industry's own claims regarding its competition with two different types of imported products and inconsistent with the Commission's own approach in assessing the competitive status of the Australian market separately for rebar straights and coils;
- it is unclear whether there has been any consideration of the market for rebar coil, especially Nervacero's spooled rebar coil;
- there are many indications of the lack of substitutability and different markets for rebar coils and straights;
- rebar coils and rebar straights are different products, competing in different parts of the market and providing different commercial solutions to customers;
- before reaching a conclusion that cumulation of Nervacero's spooler coil with other coil is permitted, further inquiry is required, for example: is the rebar coil purchased by end users the same or different to Nervacero's and was the coil purchased for the same end uses;
- even if such enquiry supported the cumulation of Nervacero's rebar coil with other spooled coil, it did not support the proposed cumulation of rebar straights and rebar coils;
- product based differentiation must be considered when the goods under consideration cover a broad range of products; and
- if the Commission were to cumulate Nervacero's spooled rebar coils with all other imports, it would need to behave consistently in other aspects of its injury analysis by considering the price effect of dumped goods indifferent to their product type and undertaking a non-injurious price determination for all types of rebar indifferent to their product type.

Sidenor: In its submission to SEF 418[80] Sidenor stated that imports of rebar spooled coils cannot be cumulated with imports of rebar straights because:

- rebar straights are a different product to spooled rebar coils. Spooled rebar coils can be used for the same purposes as rebar straights but are not designed specifically for those purposes and are less economical in those uses than rebar straights;
- rebar straights cannot be used in automated prefabrication processes specially designed to take up rebar coil;
- OneSteel has recognised that the products are subject to different cost and price considerations and has hence presented its data separately for each product type and the Commission's injury analysis confirms with this separation;
- the goods exported from Greece and Spain have different conditions of competition to the imports from other sources under investigation as they have different costs, different price patterns and different markets. As a reflection of this

[79] Document 50, EPR 418.
[80] Document 52, EPR 418.

the Australian market rebar in coil is more expensive than rebar straights arising due to the higher production costs for rebar coils and the costs savings for fabricators associated with rebar coils.

9.3.4.1 Commissioner's consideration

The Commissioner does not agree that the Commission's performance of a product specific analysis is at odds with its cumulation of exports from the subject countries. The reasons why the Commission conducted a product specific analysis are discussed at section 8.4.2 of this report. As noted there, along with its product specific analysis, the Commission also assessed the market as a whole by assessing injury factors and comparing prices and substitutability across all product forms.

In essence the argument from Nervacero and Sidenor is that the conditions of competition between rebar straights and rebar coils are different, and as in this investigation the sources that supply rebar straights (Indonesia, Power Steel and Thailand) and rebar coils (Nervacero and Greece) are exclusive to each other, the Commissioner should not cumulatively assess the effect of exports from the subject countries. The Commissioner does not accept this argument.

Price comparison

The Commission compared the weighted average FIS prices of rebar coils and rebar straights of two Australian importers who sold rebar straights and rebar coils sourced from the subject countries, based on their verified data. The two importers collectively accounted for over 50 per cent of the import volume of rebar during the investigation period. The importer data showed that the FIS prices of rebar straights and rebar coils were not significantly different particularly in the latter half of the investigation period.

The Commission also compared the FIS prices of rebar coils from the subject countries found to be dumping with the FIS prices of rebar straights from the subject countries found to be dumping. The Commission's analysis indicated that the lowest FIS prices for rebar coils were not consistently higher than the lowest FIS prices for rebar straights and in the latter half of the investigation period in particular, the lowest FIS prices for rebar coils were only slightly higher than the lowest FIS prices for rebar straights (i.e. between 1 to 3 per cent). When the highest FIS prices in the market for rebar straights were compared to the lowest FIS prices for rebar coils for each month of the investigation period, the prices of rebar coils were lower than the price of rebar straights for a majority of the investigation period. The Commissioner is therefore satisfied that rebar straights and rebar coils compete on price.

The methodology used by the Commission to assess the FIS prices for imports from the subject countries is described at section 9.5.2 of this report. The Commission's price comparison of rebar straights and coils is at **Confidential Appendix 4.**

Substitutability

The evidence before the Commission indicates that rebar straights and rebar coils of similar diameters are generally commercially and functionally substitutable in most applications. The Commissioner considers that the imported rebar coils compete in the Australian market with rebar straights and rebar coils manufactured by Australian industry. The Commissioner's consideration of this issue been discussed at Chapter 4 of this report.

The Commissioner notes that during the investigation period a majority of OneSteel's unrelated customers purchased rebar straights and rebar coils originating from the

subject countries (either directly or through traders) and at the same time also purchased rebar straights and rebar coils from OneSteel. The Commission has observed that there is close price competition between the imported goods, and between the imported goods and the domestically produced goods.

In relation to Nervacero's submission that before reaching a conclusion that cumulation of Nervacero's spooler coil with other rebar coil is permitted, further inquiry is required, the Commissioner notes that the only other country subject to this investigation that produces rebar coil is Greece and the submissions from Nervacero and Sidenor both claim that that the rebar coils produced by them offer similar processing and logistical benefits and are used in high volume automated fabrication applications, indicating that they would compete against each other.

9.3.5 Conclusion - cumulation

Due to the margin of dumping for each exporter from each of the subject countries found to more than negligibly dumping, the volume of imports from the subject countries found to be dumping and the conditions of competition in the Australian rebar market, the Commissioner considers that it is appropriate to assess the cumulative effects of goods exported to Australia from the subject countries found to be dumping..

9.4 Volume effects

As discussed at chapter 8, OneSteel has experienced a loss of market share during the investigation period. The Commissioner considers that OneSteel's loss of market share is due to dumped imports from the subject countries found to be dumping. The Commissioner considers that while OneSteel's sales volume increased overall during the investigation period, in a growing market imports from the subject countries found to be dumping displaced its market share.

Subsection 269TAE(1)(a) states that in determining whether material injury has been caused by dumping the Parliamentary Secretary may have regard to the quantity of goods of that kind that, during a particular period, have been or are likely to be exported to Australia from the country of export. As noted at section 9.3.2 above, the Commissioner has found that, during the investigation period, the volume of dumped goods exported to Australia from the subject countries i.e. Greece, Indonesia and Thailand, and exporters i.e. Nervacero and Power Steel was not negligible under subsection 269TDA(4).

9.4.1 Sales volume and market share

The Commission's analysis identified that during the investigation period:

- the overall rebar market increased by 25 percent from 2015 to 2016;
- OneSteel's overall share of the market declined by 4 per cent from 2015 to 2016 when exports from Ispat and Putra Baja Deli to Australia were included in the analysis; and
- following the exclusion of exports from Ispat and Putra Baja Deli from the analysis, the decline in OneSteel's overall market share from 2015 and 2016 was still evident.

9.4.2 Import trends

In determining whether material injury has been caused by dumping, the Parliamentary Secretary may have regard to:

- any increase, or likely increase during a particular period in the quantity of goods of that kind exported to Australia from the country of export, and
- a change in the proportion that the quantity of goods of that kind exported to Australia bears to the quantity of goods of that kind sold or consumed in Australia.

Figure 8 below illustrates the shift in imports from countries subject to measures to imports from the subject countries over the injury analysis period. The Commissioner notes that over the injury analysis period, the overall volume of rebar exported to Australia from countries currently subject to measures reduced significantly from a peak in 2013. From 2015, the volume of imports from the subject countries began to increase, with a significant increase in 2016 as compared to 2015. During this time (i.e. between 2015 and 2016), Australian industry's share of the market reduced though the market overall increased by approximately 25 per cent during the same period.

The Commissioner considers that the analysis supports a view that over the investigation period, OneSteel lost market share to the countries subject to investigation.

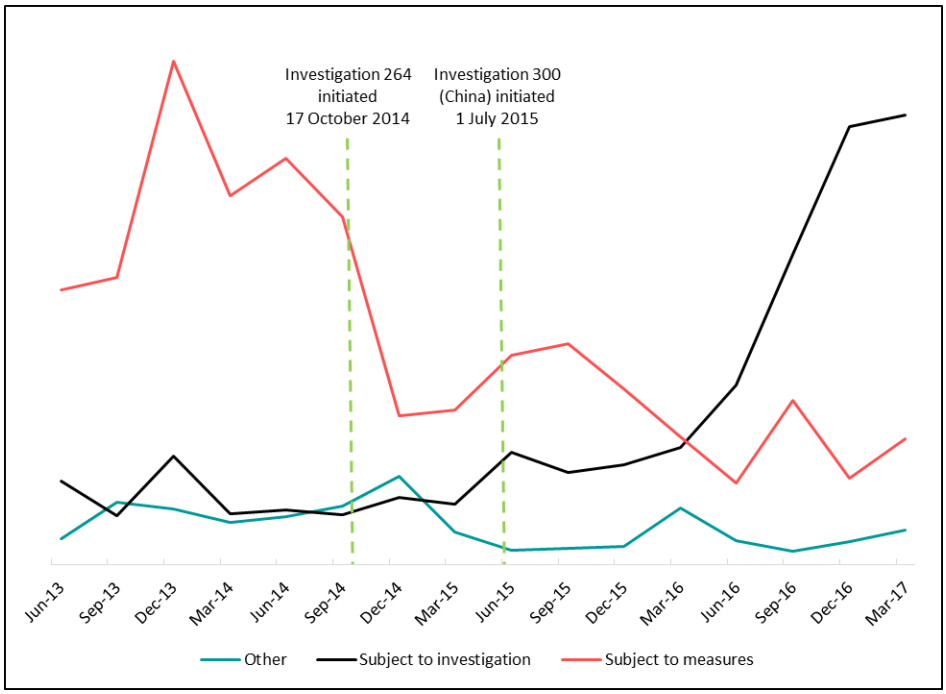

Figure 8: Import trend analysis – Rebar import volume in tonnes

The Commission's import trends analysis is at **Confidential Appendix 1**.

9.4.3 Submissions from interested parties

Nervacero:In its submission prior to publication of the SEF[81], Nervacero submitted that since 2013 OneSteel has significantly increased its sales quantities, overall sales value and production volumes of rebar coils along with other injury indicators like revenue,

[81] Document Number 34, EPR 418.

return on investment and productivity and these factors do not show that material injury has been suffered in the rebar coil market.

In its submission to SEF 418[82], Nervacero submitted that volume based injury is not present pointing to a number of indicators including the growth in OneSteel's sales volume during the injury analysis period, OneSteel's high market share which is its second highest in an eight year period and the total market share of imported goods being among the lowest in recent times. Nervacero submitted OneSteel's sales volume was at its highest at any time in the last eight years and OneSteel's sales of imported products was also at its highest supporting the proposition that OneSteel could not support the market during the investigation period based on its own production. Based on OneSteel's application, Nervacero noted that in relation to rebar coils, OneSteel's domestic sales quantity was 35 per cent higher in the investigation period as compared to calendar year 2015 and its export sales quantity for the investigation period was 17 per cent higher. Nervacero submitted that these indicators pointed to the opposite of volume-based material injury.

Sidenor: In its submission prior to publication of SEF 418[83], Sidenor submitted that in respect of rebar coils, OneSteel had increased its sales quantities, overall sales volumes and production volumes along with other injury indicators like revenue, return on investment and productivity and these factors do not show that material injury has been suffered in the rebar coil market.

In its submission to SEF 418[84], Sidenor noted OneSteel's increasing sales volumes and submitted that:

- there may be causative factors for OneSteel's reduced market share other than dumping for example, that it experienced capacity demands or may have had difficulty increasing its market penetration or may not have wanted to increase its market share given the marketing costs and sales risks;
- OneSteel's imports of rebar coil imply that it could not supply market requirements from its own production; and
- a reduction in market share at a time when OneSteel is enjoying escalating sales is not evidence of injury.

Neumann Steel: In its submission prior to the publication of SEF 418[85], Neumann Steel submitted that:

- OneSteel has not suffered injury in the form of lost sales as its sales volumes have increased consistently and significantly over the injury analysis period;
- OneSteel's application indicates that it has taken market share from imports and has been the biggest beneficiary in the Australian market for rebar;
- OneSteel's market share in the investigation period is the second highest it has been during the injury analysis period;
- a slight decline in market share can hardly be said to be materially injurious in light of the significant increase in sales volume;
- it will never be the case that OneSteel will supply the entire Australian market; and

[82] Document 50, EPR 418.
[83] Document 40, EPR 418.
[84] Document 52, EPR 418.
[85] Document 35, EPR 418.

- OneSteel appears to be very close to its optimal production capacity during the investigation period. It has imposed supply limitations on Neumann Steel and presumably its other customers suggesting that it is at capacity and cannot service the Australian market.

In its submission to SEF 418[86], Neumann Steel submitted that it did not believe OneSteel's decrease in market share was injurious because:

- OneSteel was operating at full capacity during the investigation period and had difficulties supplying its existing customers. These issues are ongoing;
- OneSteel does not supply every customer in the Australian market and by limiting who it sells to OneSteel ultimately limits how rapidly its market share will increase;
- despite being the most expensive source of rebar, OneSteel still manages to supply approximately 78 per cent of the Australian market and increase its sales volume over the investigation period;
- it was common knowledge that OneSteel's distributor agreements allow independent distributors to purchase rebar from other sources besides OneSteel; how could it then be injurious if the entity then purchased rebar from elsewhere;
- OneSteel is selling rebar from imported sources and this suggests that OneSteel cannot meet the demand of the market and therefore cannot be expected to increase market share; and
- OneSteel is unable to produce coil of 20 mm and above and cannot be injured by virtue of a product it cannot produce or compete against.

Sanwa and Nervacero: Sanwa and Nervacero at a meeting with the Commission[87] claimed that:

- OneSteel does not have the capacity to supply the market;
- some independent processors who previously had access to rebar from OneSteel have been told that their direct access supply will be cut. Some independent processors have had quotas placed on the amount of rebar that they can access directly from OneSteel; and
- the current shortage in the market has led to OneSteel looking to source rebar from overseas post the investigation period.

Government of Spain: In its submission to SEF 418[88], the Government of Spain submitted that OneSteel's domestic sales and subject imports have increased during the injury analysis period and that this was possibly to the prejudice of other imports and imports subject to measures. Therefore it cannot be concluded that OneSteel has experienced injury in the form of reduced market share during the analysed period. Also, if there has been a displacement in market share it has not come from Australian industry's market share but from 'other countries' and 'countries subject to measures'.

European Commission: The European Commission submitted[89] that OneSteel's domestic sales have increased by 45 per cent during the period from March 2013 to March 2017 and this is above the market growth rate which was 33 per cent in the same period. In this regard a decline of 4 per cent in the investigation period does not seem to be big amount

[86] Document 53, EPR 418.
[87] Document 31, EPR 418.
[88] Document 46, EPR 418.
[89] Document 49, EPR 418.

given fluctuations in the past. Moreover, OneSteel has significantly increased its market share during the investigation period. Other than that the rise in imports from the subject countries appears to mainly substitute imports from countries subject to measures.

OneSteel: OneSteel submitted[90] that there is a shortage in the market that has impacted the Australian market in the short term leading to OneSteel looking to source imported goods as a short term measure. It is not the responsibility of OneSteel to supply the entire market but it has the capacity to do so.

9.4.4 Commissioner consideration

The Material Injury Direction relevantly directs the Commissioner as follows

> *In cases where it is asserted that an Australian industry would have been more prosperous if not for the presence of dumped or subsidised imports, I direct that you be mindful that a decline in an industry's rate of growth may be just as relevant as the movement of an industry from growth to decline. I direct that it is possible to find material injury where an industry suffers a loss of market share in a growing market without a decline in profits. As in all cases, a loss of market share cannot alone be decisive. I direct that a loss of market share should be considered with a range of relevant injury indicators before material injury may be established.*

The Commissioner has not considered OneSteel's decline in market share in isolation but has considered it together with all other injury factors that are indicative of the economic conditions of the Australian industry.

Supply issues

The evidence before the Commission indicates that OneSteel generally supplies the larger rebar distributors and customers who commit to OneSteel's Supply Agreement. Entities seeking to purchase rebar who may not fit this description have the option of purchasing rebar from Australian traders/importers or sourcing rebar directly through overseas mills or purchasing rebar from OneSteel's related entities. The list of OneSteel's unrelated customers has not changed significantly since Investigation 264, indicating that OneSteel's customer profile has not changed significantly during the injury analysis period.[91]

OneSteel has submitted that it is not its responsibility to supply the entire rebar market. but once additional shifts at its production facilities are optimised, it has the potential capacity to do so. On the basis of data verified during the Australian industry visit, the Commissioner is satisfied that OneSteel had the capacity to at the very least maintain its market share during the investigation period. The Commissioner also accepts OneSteel's claims that by adding additional shifts at its production facilities, it has the capacity to meet increased demand in the Australian market for rebar. The Commissioner does not consider that OneSteel needed to have the capacity to supply the entire market during the investigation period in order to be injured due to dumped goods.

Information before the Commissioner indicates that at least one customer of OneSteel experienced supply issues i.e. late deliveries and logistical issues, during the investigation period. There is evidence that around mid-2016, OneSteel had to meet unforecast demand that was due to surge in international scrap prices and this may have caused

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[90] Documents 38 and 55, EPR 418.

[91] The investigation period for Investigation 264 was 1 July 2013 to 30 June 2014.

supply issues. However, there is no evidence of wide spread supply issues such as would have caused a reduction in the market share experienced by OneSteel.

In relation to claims that OneSteel is unable to meet current demand (i.e. in the period following the investigation period), OneSteel claims that the current shortage in the international rebar market has created increased demand in the domestic market and that it has sourced imported rebar as an interim measure and added additional shifts to utilise its existing capacity to meet this demand. This issue is considered further at Chapter 10 of this report. The Commissioner considers that supply issues in the period following the investigation period does not undermine his findings that the Australian industry experienced material injury caused by dumped goods during the investigation period.

The Commissioner also notes that OneSteel's ability or inability to supply the entire market does not affect the Commissioner's findings regarding price injury which are discussed at section 9.5 of this report.

OneSteel's imports

As noted previously, the Commissioner considers that OneSteel's imports of rebar during the investigation period represent an insignificant proportion of the market. Also, as noted in other submissions[92], the imports were predominantly of 20 mm rebar coil which OneSteel produced during the investigation period. The Commissioner does not consider that the small volume of imports of predominantly 20 mm rebar coils lead to any conclusions that OneSteel cannot meet market demand more generally and therefore could not be expected to increase its market share in an expanding market. The Commissioner has excluded OneSteel's own imports of rebar from its assessment of injury factors. However, the Commissioner has also found (at Chapter 4 of this report) that OneSteel produces goods are that are directly competitive to the imported 20 mm rebar coils.

OneSteel's Supply Agreement

While OneSteel's distributor agreements may allow independent distributors to purchase rebar from other sources, the Commissioner considers that this does not negate his finding that OneSteel's reduced market share due to exports from subject countries that the Commission has found are at dumped prices, is injurious.

Market share over the injury analysis period

The statement from the European Commission that Australian industry has significantly increased its market share during the investigation period is inaccurate. The European Commission possibly means to refer to the injury analysis period rather than the investigation period.

The Commissioner notes that he has found in previous investigations (Investigation 264 and Investigation 300) that the Australian rebar market was affected by dumping between July 2013 and June 2015. For that reason, the Commissioner considers that comparing Australian industry's market share in 2013 or 2014 to its market share in the investigation period does not provide a sound basis for conclusions in relation to volume effects. The period in 2015 when measures were in place as a result of Investigations 264 and 300, and the volume of imports from the subject countries was still low, provides a better basis

[92] Documents 34, 35 and 40 EPR 418.

for comparison. As observed, in 2016 as compared to 2015, Australian industry's market share declined despite an expansion of the market during this period.

9.4.5 Conclusion

The Commissioner considers that OneSteel has experienced injury due to its reduced market share during the investigation period which was due to its share of the market being displaced by imports from the subject countries.

The Commission's import trend analysis supports a finding that during the investigation period, OneSteel lost market share to imports from the subject countries found to be dumping rather than to countries subject to measures or other countries. The Commissioner has found (at Chapter 5 of this report) that except for the imports from Indonesian exporters Ispat and Putra Baja Deli, the imports from the subject countries were at dumped prices. The Commissioner is satisfied that the higher volumes of goods from the subject countries dumped at a margin greater than two per cent caused a decline in OneSteel's market share.

9.5 Price effects

During the investigation period, the Commissioner found that prices of goods from the subject countries found to be dumping have caused price injury to Australian industry. The Commissioner considers that the prices of dumped imports from the subject countries found to be dumping have applied downwards pressure on Australian industry's prices so that it was unable to raise its prices, leading to injury through price suppression. Based on evidence of the price competition in the rebar market, the evidence that OneSteel's prices were heavily influenced by the prices of goods from the subject countries found to be dumping and the price suppression found, the Commissioner is satisfied that the dumped imported goods have had a significant effect on OneSteel's prices.

In determining whether material injury has been caused to Australian industry due to dumping, subsection 269TAE(1)(e) of the Act states that the Parliamentary Secretary may have regard to the difference between:

- the price that has been, or is likely to be, paid for goods of that kind, or like goods, produced or manufactured in the Australian industry and sold in Australia; and
- the price that has been, or is likely to be, paid for goods of that kind exported to Australia from the country of export and sold in Australia.

In addition, subsection 269TAE(1)(f) states that the Parliamentary Secretary may have regard to the effect that the exportation of goods of that kind to Australia from the country of export in those circumstances has had, or is likely to have, on the price paid for goods of that kind, or like goods, produced or manufactured in the Australian industry and sold in Australia.

9.5.1 Market based pricing

In its application, OneSteel advised that it maintains a market based pricing policy for external and internal customers. It stated that since the commencement of material injury from the dumped imports from the subject countries, it has responded to price undercutting by reducing its prices for like goods to its customers based on its market intelligence regarding import offers that were being received by these customers.

Along with its application, OneSteel provided:

- a detailed month by month breakdown of the Free Into Store (FIS) import offers that determined its pricing decisions over the investigation period. The FIS offer information presented by OneSteel was based on its market intelligence;
- evidence in the form of emails and file notes of the import offers and the movement in the import offers that were used by independent customers to negotiate prices during the investigation period; and
- information to demonstrate how it's pricing for unrelated customers influences the pricing for related customers on a month by month basis.

To assess whether there was in fact a correlation between the FIS import offers from the subject countries and the price realised by OneSteel, the Commission looked at the relationship between the FIS import offer evidence provided by OneSteel and OneSteel's verified realised weighted average domestic selling prices to related and unrelated customers for each month of the investigation period. Unlike the price undercutting analysis which follows at section 9.5 of this report, for the purposes of this assessment offers from countries not subject to this investigation, and those that related to exporters subject to this investigation who were found to be negligibly dumping (i.e. Ispat and Putra Baja Deli) were excluded.

The results of the Commission's analysis are depicted at figures 9 and 10 below.

9.5.1.1 Sectoral analysis – rebar straights

Except for one month in the investigation period, import offers from subject countries found to have been dumping were lower than OneSteel's weighted average price. For a majority of the investigation period, import offers from the subject countries found to be dumping were either the lowest or among the lower price offers in the market.

For the sake of completeness, the Commissioner notes that the import offers that influenced OneSteel's prices for rebar straights included offers from an exporter subject to this investigation that the Commissioner has found to have been negligibly dumping and offers from unidentified exporter/s from Asia.

Figure 9: Pricing over investigation period – Rebar coils

9.5.1.2 Sectoral analysis – rebar coils

The Commissioner notes that import offers from subject countries found to have been dumping were lower than OneSteel's weighted average price for six months of the investigation period.

For the sake of completeness, the Commissioner notes that for three months of the investigation period, the import offers in the market that influenced OneSteel's prices for rebar coils were exclusively from an exporter not subject to this investigation.

Figure 10: Pricing over investigation period – Rebar coils

Note: The graphs depicted in figures 9 and 10 do not include import offers from countries that are not subject to this investigation, and import offers from Ispat and Putra Baja Deli who the Commissioner has found were negligibly dumping during the investigation period.

The Commission's analysis of OneSteel's market based pricing policy is at **Confidential Appendix 5**.

9.5.1.3 Submissions from interested parties

Nervacero: Nervacero submitted that[93]:

- it is strange for an injury causation analysis to claim that the effect of goods not subject to investigation must be excluded and this was contrary to the specific obligation in subsection 269TAE(2A);
- the database used for the SEF's market based pricing analysis and inferences drawn from the analysis are questionable. It is not clear what the FIS import offer price basis is, or whether the FIS import prices truly reflect the actual price competition from the exports subject to investigation. For example, imports from Spain and Greece are subject to a 5 percent import tariff. If this import tariff has not been built into the FIS price, then the comparisons are distorted;
- the accuracy of the market based FIS price offers have profound implications for the claims that market based pricing has caused injury to OneSteel. If the prices that OneSteel has been trying to match are lower than the actual FIS price level of

[93] Document 50 and 61, EPR 418.

the imports, then the attempt by OneSteel to claim that Nervacero's exports were the cause of its price suppression must fail. The fact that OneSteel 'got it wrong' and priced its rebar at a point that it considers to be injurious is not Nervacero's fault;

- the market based pricing chart in SEF 418 is vastly different to the one in OneSteel's application which presumably better reflected the information that OneSteel relied on in making its pricing decisions;
- Figure 10 in SEF 418 actually indicated that there is no close correlation between the lowest price offers from Nervacero and Greece and OneSteel's price pattern. OneSteel's price fluctuated while the lowest price offers from Spain and Greece remained relatively steady. This suggests that OneSteel's pricing decisions are influenced by other factors;
- injurious effect due to Nervacero's exports cannot be established if there was another significant source of rebar coil imports that were the lowest priced for most of the investigation period based on the pricing intelligence used by OneSteel to set its price and Nervacero's price that OneSteel claims to have taken into account was not the actual higher prices of Nervacero's rebar coils; and
- the fact that OneSteel does not always try to match the lowest import offer and would match the offer based on judgement regarding the threat (as stated in SEF 418) shows that price is not the determinative factor and that the alleged dumping may have little or no effect on OneSteel's prices.

Sidenor: Sidenor submitted that[94]:

- the statement in SEF 418 that "for three months of the investigation period import offers in the market that influenced OneSteel's pricing decisions were exclusively from an exporter not subject to this investigation" is ambiguous as to whether those import offers undercut OneSteel's prices. It is likely that the Commission meant to say here that the import offers relate to exports from Daehan and they did undercut OneSteel's prices and therefore had a downward effect on OneSteel's prices;
- the statement in SEF 418 that "import offers from dumped sources subject to this investigation were lower than OneSteel's weighted average price for six months of the investigation period" does not separate exports from Greece and Spain. However, on the information provided in OneSteel's application it can be seen that there is only one month where Sidenor's offer was appreciably the lowest in the market. On the other two occasions where Sidenor's FIS price offer is shown, the price offer is the same as the FIS price offer from Daehan; and
- SEF 418 recites the way in which OneSteel's pricing works. OneSteel is guided by and seeks to match the lowest import price offer in its pricing. It is therefore the lowest price offer that is causative of the price impact on OneSteel.

OneSteel: OneSteel submitted[95] that Nervacero's criticism of the Commissioner's analysis was unfounded as the purpose of the analysis was to test the claimed correlation between the applicant industry's net realised FIS offers and the FIS price offers of the imported goods into the Australian market. OneSteel stated that Nervacero has made light of the discrepancy between the Commissioner's verified FIS price comparison and the applicant industry's market intelligence based import price offer information. In its

[94] Document 52, EPR 418.
[95] Document 59, EPR 418.

response to OneSteel's submission, Nervacero submitted[96] that it had not made light of the discrepancy but the discrepancy was fatal to OneSteel's allegation that there is a connection between any material injury and the pricing of Nervacero's exports.

9.5.1.4 Commissioner's consideration

The Commission's market based pricing analysis discussed above seeks to determine if OneSteel's claim that it its prices were based on, and influenced by, import offers from the subject countries found to have been dumping, is supported. The Commission accepts that as disclosed in OneSteel's application, during the investigation period OneSteel was also responding to FIS import offers from countries and exporters not subject to this investigation.

Submissions to the SEF 418 have assumed that the lowest import offer in a given month drives OneSteel's pricing to all its customers in that month. The evidence provided by OneSteel indicates that import offers received by individual customers are leveraged by those customers to negotiate prices with OneSteel and OneSteel negotiates with customers individually to respond to the import offers. For that reason, import offers that were not the absolute lowest offer in the market during the investigation period have had a downward impact on OneSteel's prices during the investigation period. In any case, noting that goods exported by Nervacero and Greece were present in the market at dumped prices during the investigation period, as the Commissioner has determined that a cumulative approach to injury analysis is appropriate, it is not necessary for the Commissioner to further individually assess whether the goods from Nervacero and Sidenor had a negative impact on price.

The Commission used OneSteel's verified weighted average prices rather than the 'Applicant FIS price' that OneSteel relied on in its application to perform its analysis. The Applicant FIS price used by OneSteel to perform its analysis is the price that OneSteel believes it would have achieved if it did not have to match imports offers. The Commission compared OneSteel's realised weighted average prices to the FIS offers that OneSteel claimed it was responding to during the investigation period based on its market intelligence. While the analysis depicted in Figures 9 and and 10 above only examines the correlation between OneSteel's weighted average price and the prices from the subject countries (except for price offers from Ispat and Putra Baja Deli), the discussion above indicates the months in which OneSteel's prices were not influenced by FIS import offers from the subject countries found to be dumping.

The Commissioner considers that figures 9 and 10 support OneSteel's claims that during the investigation period its prices were influenced by the FIS import offers from the subject countries found to be dumping. As the FIS import offer information presented in figures 9 and 10 is based on OneSteel's market intelligence which is incomplete and (as noted in submissions) could be incorrect, the Commission's price undercutting analysis described below at section 9.5.2 of this report further tested whether OneSteel's prices correlate to FIS import prices (based on data verified by the Commission). The Commissioner is satisfied that the Commission's price undercutting analysis indicates a causal relationship between OneSteel's prices and actual FIS import offers from the subject countries found to be dumping.

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[96] Document 61, EPR 418.

The Commissioner also notes that the price undercutting analysis discussed below considered the effect of the prices of imports from sources not subject to this investigation and from exporters found to be negligibly dumping on OneSteel's prices. The Commissioner therefore does not agree with the claims that the Commission has failed to consider the causative effect of goods not subject to this investigation on OneSteel's prices.

9.5.1.5 Conclusion – market based pricing

The Commission's analysis as depicted in figures 9 and 10 above indicates that OneSteel's prices during the investigation period correlated with the FIS import offers that it claims it was responding to based on its market intelligence. The evidence provided by OneSteel indicates that price offers from the subject countries found to be dumping influenced OneSteel's prices. The analysis supports OneSteel's claims that it implemented a market based pricing policy. The Commissioner considers that the analysis depicted in figures 9 and 10 along with the price undercutting analysis described below provides direct evidence that import offers from the subject countries were exerting a downward pressure on OneSteel's prices during the investigation period.

9.5.2 Price undercutting

In its application, OneSteel alleged that its prices are being undercut by the dumped goods. Price undercutting occurs when imported goods are sold at a price below that of the Australian produced like goods.

Based on ABF data and verified sales data sourced from the cooperating importers and exporters, and from OneSteel, the Commission compared the weighted average selling prices of rebar straights and rebar coils originating from exporters subject to this investigation during the investigation period with OneSteel's actual realised weighted average prices over the investigation period. The Commission looked at the weighted average selling prices of rebar coils originating from exporters not subject to this investigation as well as exporters subject to this investigation who were found to be negligibly dumping. Adjustments were made to convert prices to a FIS price based on actual weight using verified importer data. Post importation costs were based on the most efficient verified importer's post importation costs. Where CRE data was used to construct the FIS price, the value of the taxable importation (including any duty where applicable) was used, and the most efficient post-importation costs based on verified importer data were added. To account for differences in level of trade, weighted average prices were compared for common customers (i.e. customers who source rebar from OneSteel and also directly from subject countries and/or traders who import rebar from the and subject countries). OneSteel's domestic sales of imported rebar coils were excluded from the analysis. For rebar straights, noting that diameters of less than 10mm and above 36 mm command a premium and are priced higher, only the standard diameters of 10 mm to 36 mm were included in the analysis.

The undercutting analysis presented below has minor differences to that presented in SEF 418 as the Commission has identified and rectified minor typographical errors in its analysis.

9.5.2.1 Sectoral analysis – Rebar straights

The Commission's undercutting analysis showed that during the investigation period the Australian industry's prices for rebar straights were undercut by:

- between 1 to 16 per cent by exports from Thailand. The Commissioner notes that exports from Thailand undercut OneSteel's prices in 11 out of the 12 months of the investigation period.
- between 1 to 22 per cent by exports from Taiwan (by Power Steel). The Commissioner notes that exports from Taiwan undercut OneSteel's prices in every month of the investigation period.
- between 1 to 17 per cent by exports by Indonesian exporter Putra Baja Deli, noting that the Commissioner has found that Putra Baja Deli's dumping margin is negligible. Putra Baja Deli undercut OneSteel's prices in 10 out of the 12 months of the investigation period.
- between 1 to 16 per cent by exports by Indonesian exporter Ispat, noting that the Commissioner has found that Ispat's dumping margin is negligible. Ispat undercut OneSteel's prices in 7 out of 12 months of the investigation period.

9.5.2.2 Sectoral analysis – rebar coils

In relation to rebar coils, the Commission's analysis indicates that Australian industry's prices were undercut by:

- between 6 to 8 per cent by exports from Greece. The prices of imports from Greece undercut OneSteel's rebar coil prices in three months of the investigation period.
- between 2 to 12 per cent by exports from Spain by Nervacero. Nervacero undercut OneSteel's prices in 10 out of the 12 months of the investigation period.
- between 4 to 16 per cent by exports from an exporter not subject to this investigation. This exporter undercut OneSteel's prices in 11 out of the 12 months of the investigation period.

The Commission's price undercutting analysis is at **Confidential Appendix 4**

9.5.2.3 Submissions from interested parties

Nervacero: In its submission to SEF 418[97], Nervacero stated that:

- if the price undercutting analysis was performed on a sectoral basis, then it makes no sense to cumulate imports from all countries in making an injury causation determination;
- the FIS price that the Commission has used for its price undercutting analysis should not simply be a conversion of export prices. It is not clear from the SEF what adjustments were made. If an export price to FIS price conversion is adopted for exports from Spain and Greece then the Commission is reminded to include import tariff payable with any importer premium;
- even if the 'converted FIS price' analysis has been done properly, it shows that neither Nervacero nor Greece imposed the most price pressure on OneSteel. The price leader was an exporter not subject to this investigation that Nervacero understands to be Daehan. A correlation between OneSteel's prices and the prices of dumped goods is not enough to establish material injury when an exporter not subject to this investigation more extensively undercut OneSteel's prices during the investigation period; and

[97] Document 50, EPR 418.

- SEF 418 fails to examine the effect of any price undercutting by the goods imported from Nervacero and Greece. The mere appearance that Nervacero's prices were sometimes lower than that of OneSteel does not mean that OneSteel suffered injury because of price undercutting as it increased its sales volume and it did so at higher prices.

Sidenor: In its submission prior to publication of SEF 418[98], Sidenor submitted that it was unlikely that Sidenor's exports were involved in 'price undercutting' at FIS level.

Sidenor in its submissions to SEF 418[99] submitted that:

- the wording in SEF 418 with respect to undercutting by Greece is opaque and does not state the number of months in which there was undercutting by Sidenor;
- the FIS price of Sidenor may have been the lowest in the market for only one month out of the 12 months of the investigation period. This does not provide evidence of material injury caused to Australian industry by Sidenor's exports; and
- Korean imports were benchmarked by OneSteel in every month of the investigation period and were the lowest or equal to the lowest offer in 11 of the 12 months.

OneSteel: OneSteel in responses to the submissions from Sidenor and Nervacero[100] submitted that

- a fact not readily apparent from the Commissioner's finding is that when the sales of dumped imports from Nervacero and Sidenor did represent the lowest prices in the market and displayed the greatest undercutting margins, were in those periods of the investigation period in which they represented the highest share of all imports of rebar coils. Conversely during those periods, Daehan represented its lowest share of imports of rebar coils;
- OneSteel's analysis of monthly price offers across the investigation period indicates that in spite of price offers from Daehan generally representing the lowest price offers during the earlier months of the investigation period, price offers from Sidenor and Nervacero were the lowest priced goods during the latter half of the investigation period; and
- taking Sidenor's customer, almost all of OneSteel's rebar coil offers were based on Sidenor's price offers or that of another exporter subject to this investigation.

9.5.2.4 Commissioner's consideration

As discussed previously at section 8.4.2 of this report, the Commissioner does not consider that the performance of a price undercutting analysis on a sectoral basis is contrary to the cumulation of exports from the subject countries found to be dumping for the purposes of injury causation assessment.

The Commissioner confirms that the FIS price for Greece and Nervacero used in the price undercutting analysis includes the five percent tariff that is applicable to goods from these countries. The Commission has explained the adjustments that were applied that to arrive at a constructed FIS price at section 9.5.2 of this report.

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[98] Document 40, EPR 418.
[99] Documents 52 and 60, EPR 418.
[100] Documents 59 and 62, EPR 418.

As noted above at paragraph 9.5.1 of this report, the Commissioner is satisfied that import offers from the subject countries that were not the absolute lowest offer in the market during the investigation period have had a downward impact on OneSteel's prices during the investigation period.

As noted at section 9.5.1 of this report, goods exported by Nervacero and Greece were present in the market at dumped prices during the investigation period and as the Commissioner has determined that a cumulative approach to injury analysis is appropriate, it is not necessary for the Commissioner to assess whether the goods from Nervacero and Sidenor individually had a negative impact on price. As noted at section 9.5.1.4 of this report the Commissioner accepts that import offers received by OneSteel's individual customers are leveraged by those customers to negotiate prices with OneSteel and OneSteel negotiates with customers individually to respond to the import offers. For that reason, import offers from the subject countries found to be dumping (though not always the absolute lowest offer in the market during the investigation period) have had a downward impact on OneSteel's prices during the investigation period.

9.5.2.5 Conclusion – price undercutting

The Commissioner considers that notwithstanding the presence of low priced import offers from an exporter not subject to this investigation during the investigation period, the price undercutting analysis supports a finding that OneSteel experienced price suppression during the investigation period due to the dumped prices of goods from the subject countries found to be dumping.

9.5.3 Submissions from interested parties – price effects and causation

Neumann Steel: Neumann Steel in its submission to SEF 418[101] submitted that:

- the perception of price undercutting by imported goods is virtually guaranteed as OneSteel's prices are essentially the exporter's prices plus a premium. This is not indicative of any injury;
- OneSteel practices means it does not set its prices according to costs but with regard to import prices. Thus the fact that in some instances OneSteel has sold goods at a price less than its costs is not truly indicative that its price is suppressed or depressed. The value of OneSteel's margin being an indicator of price suppression is nil;
- OneSteel's market based pricing policy means that OneSteel cannot respond to unexpected cost increases that occur after setting the price. There was an unexpected increase in costs in the last quarter of the investigation period and while OneSteel's prices in that quarter did increase, the increase was not sufficient to cover the spike in costs. This is a risk inherent in OneSteel's pricing policy;
- comparison of prices is therefore a misleading test to determine whether injury due to price suppression/depression has been caused by the targeted imports. OneSteel's prices have clearly trended upwards over the investigation period;
- it requested more information about how prices for undercutting were determined;
- OneSteel's prices to its related party entities are transfer prices. A finding that these sales are injurious by virtue of an artificial link to import offers is not supported by facts. To the extent that OneSteel's primary goal is maintaining or increasing its production volume, OneSteel has been successful; and

[101] Document 53, EPR 418.

- OneSteel was able to increase its prices over the investigation period showing that prices had not been suppressed or depressed.

European Commission: The European Commission submitted[102] that:

- the undercutting ranges are small and prices from all competitors were not far from each other; therefore all origins could motivate price suppression;
- while the Commission alleged correlation between OneSteel's sales prices and import prices to demonstrate price suppression, the correlation is unavoidable due to OneSteel's market based pricing policy; and
- other factors that may have caused price suppression have not been examined, for example the high cost increases in the last two quarters, domestic industry's increased capacity in 2015 and 2016, structural losses that point to a lack of competiveness and other factors.

Government of Spain: The Government of Spain submitted that[103] OneSteel's CTMS and unit sales revenue fluctuate during the analysed period; since no analysis has been provided about the existence of correlation between the subject imports and unit sales trends, it cannot be ascertained whether the subject imports have been the cause of the alleged price suppression. The Government of Spain submitted that there is no deeper analysis of the reasons behind the increase in costs experienced in the last two quarters of the investigation period and it asked the Commission to examine the price of OneSteel's scrap supply, OneSteel's conversion costs and the costs related to OneSteel's external administration. It submitted that further examination was required of the weather events and rise in coke prices which SEF 418 stated caused OneSteel's prices to increase in the last two quarters of the investigation period.

Lyndons Pty Ltd (Lyndons): Lyndons submitted[104] that OneSteel's pricing methodology for the sale of its goods may be economically flawed, and it could be an own goal rather than being used for determining that it has suffered injury due to lower cost of imports.

9.5.3.1 Commissioner's consideration

The Commissioner accepts that given OneSteel's adoption of market based pricing, it is not unexpected to find that the price of imports undercut OneSteel's prices during the investigation period. However, the Commission's price undercutting analysis has found a strong correlation between OneSteel's prices and the prices of dumped imports from the subject countries found to be dumping. The Commissioner is satisfied that price is a major condition of competition in the rebar market and that the locally produced rebar and imported rebar from the subject countries are functionally and commercially substitutable. In these circumstances, the Commissioner accepts OneSteel's claims that in order to maintain sales volumes it had to respond to the import offers from the subject countries found to be dumping.

The Commissioner's consideration of whether OneSteel's related party sales are suitable for inclusion in the Commission's injury analysis is at paragraph 8.4.1 of this report.

The Commissioner has separately considered the effect of imports from the exporter not subject to this investigation and the Indonesian exporters found to have been negligibly dumping (Ispat and Putra Baja Deli) at section 9.8.3 of this report. The Commissioner's

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[102] Document 49, EPR 418.
[103] Document 46, EPR 418.
[104] Document 44, EPR 418.

consideration of other factors in relation to price suppression that have been raised in the submissions by the Government of Spain and the European Commission is at section 9.8 of this report.

9.5.4 Conclusion – price effects

The Commissioner considers that import prices from subject countries found to be dumping have caused price injury to Australian industry.

The Commissioner considers that the price of imports from the subject countries found to be dumping was a key determinant of OneSteel's selling price during the investigation period. The Commissioner is of the view that as customers can purchase either from OneSteel or from an import supply source, OneSteel is obliged to respond to the price of imported products in order to remain competitive. The Commissioner considers that the price of dumped imports from the subject countries found to be dumping have applied downwards pressure on Australian industry's prices so that it is unable to raise its prices, leading to injury through price suppression.

Based on evidence of the degree of price sensitivity in the rebar market, the influence of import prices on OneSteel's prices and the price suppression found, the Commissioner is satisfied that imported goods at dumped prices from the subject countries found to be dumping have had a significant negative effect on OneSteel's prices.

The Commissioner's consideration of the impact of the prices of goods exported by Ispat and Putra Baja Deli (i.e. the exporters found to be negligibly dumping) on OneSteel's prices is at section 9.8.3 of this report.

9.6 Profit effects

As mentioned in section 8.6 of this report, the Commission's analysis shows that during the investigation period, OneSteel's CTMS exceeded its selling prices of the goods in three of the four quarters of the investigation period. The Commission's analysis of shifting import trends during the injury analysis period discussed at section 9.4 indicates the presence of increased volumes of dumped goods from the subject countries during the investigation period has coincided with the Australian industry's inability to raise its prices.

The results of the analysis are consistent with the movements in OneSteel's ability to charge over its CTMS during the injury analysis period. The Commission's analysis indicates that:

- the volume of imports from dumped sources subject to this investigation was comparatively low during the 2015 calendar year. The volume of imports from other sources (i.e. countries currently subject to measures and other countries) was also comparatively low. The Commissioner considers that this was the combined result of the initiation of Investigation 264 in October 2014, the imposition of securities in March 2015 against countries subject to Investigation 264 and the initiation of Investigation 300 in July 2015. OneSteel was able to increase its unit sales revenue over its unit CTMS during this period; and
- following the imposition of measures against China as a result of Investigation 300 in April 2016, the volume of imports from the subject countries began to increase significantly from around July 2016. Consistent with this OneSteel was briefly able to increase its unit sales revenue over its unit CTMS in the July to September 2016

quarter but for the remainder of the investigation period, its unit sales revenue was less than its unit CTMS.

The Commission's import trends analysis described at section 9.4.2 and above indicates that CY 2015 during which OneSteel earned a profit coincided with low import volumes of rebar from the subject countries. It also indicates that OneSteel's inability to charge over its CTMS during the investigation period is linked to increasing volumes of rebar from the subject countries. Given the Commissioner's findings at Chapter 7 of this report that exports from the subject countries (with the exception of exports by Ispat and Putra Baja Deli) are at dumped prices, the Commissioner is satisfied that OneSteel's reduced profits and profitability are due to the dumped exports from the subject countries found to be dumping.

9.6.1 Submissions from interested parties

Submissions from interested parties[105] questioned the Commissioner's findings regarding reduced profits and profitability for the same reasons as the findings in relation to volume and price effects. The Commissioner's consideration of other factors that may have caused OneSteel's reduced profits and profitability during the investigation period is discussed at section 9.8 of this report.

9.6.2 Conclusion – profit effects

The Commissioner considers that there is a high degree of substitutability between domestically produced rebar and imported rebar and that price is a major determinant of purchasing decisions. Due to these factors, the Commissioner considers that OneSteel would generally be unable to raise its prices independent of the market price without suffering lost sales, and lost revenue. The analysis discussed above indicates that OneSteel's inability to raise its prices over its CTMS during the investigation period coincided with increased volume of dumped imports from the subject countries in the market. The Commissioner has established that the import offers in the markets that were influencing OneSteel's prices were from countries subject to this investigation that were found to be dumping. The Commissioner considers that those offers suppressed the prices that OneSteel might otherwise have realised. The Commissioner is satisfied that OneSteel has lost market share to the subject countries found to be dumping during the investigation period.

The Commissioner considers that the price suppression and loss in market share due to exports from the subject countries found to be dumping has resulted in lower profitability for OneSteel during the investigation period. The lower profitability combined with a reduced market share has resulted in reduced profits for OneSteel.

9.7 Other injury factors

The Commissioner considers that the link between the dumped imports from the subject countries found to be dumping and the injury suffered by OneSteel in the form of reduced market share, price suppression and reduced profits and profitability have caused it injury in the form of a reduced return on investment.

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[105] Document 50, EPR 418.

9.7.1 Submissions from interested parties

Nervacero: Nervacero submitted[106] that the Commission is required to consider the Australian industry's economic performance as a whole and not just focus on areas which show a decline or deterioration in considering whether it suffered material injury as a whole. SEF 418 had omitted to note that during the investigation period OneSteel had increased its capacity, capacity utilisation rate for like and non-like goods, increased wages, increased revenue, increased research and development expenditure, increased production and increased export volumes and values in relation to coil products. Nervacero also submitted that the analysis in SEF 418 in relation to the finding on 'return on investment' falls short of being comprehensive or conclusive. Further the return on investment data was in relation to 'like goods' only and provided a limited picture given that OneSteel uses the same production facility for both like and non-like goods. The data also does not inform the Commission about the full reality of OneSteel's operations, given that the majority of its sales are to its related entities.

9.7.2 Commissioner's consideration

The Commissioner's material injury assessment has considered all relevant economic factors influencing the state of the Australian industry producing like goods. The Commissioner is satisfied that despite the positive economic indicators noted by interested parties, Australian industry producing like goods has suffered injury in relation to its production and sale of like goods through a combination of reduced market share and suppressed prices due to the dumped imports from the subject countries found to be dumping. The Commission considers that this has resulted in reduced profits and profitability and a reduced return on investment.

The Commissioner's findings on OneSteel's related party transactions is at section 8.4.1 of this report. The data in relation to OneSteel's return on investment is discussed at section 8.8.3 of this report.

9.8 Injury caused by factors other than dumping

9.8.1 Introduction

Subsection 269TAE(2A) requires the Parliamentary Secretary to consider whether injury to an industry is being caused or threatened by factors other than the exportation of the dumped goods. This provision contains a list of factors that the Parliamentary Secretary may have regard to when considering whether injury is being caused by factors other than exportation of the dumped goods, but it is not an exhaustive list.

The Commissioner has considered whether injury to OneSteel has been caused by factors other than the dumped goods from the subject countries found to be dumping.

9.8.2 Imports from other countries not subject to the investigation

The Commissioner has found in relation to rebar coils, for six months of the investigation period, an exporter not subject to this investigation had the lowest prices that undercut OneSteel's prices. The volume of imports from this exporter amounted to approximately 10 per cent of overall imports of rebar into Australia over the investigation period.

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[106] Document 50, EPR 418.

9.8.2.1 Submissions from interested parties

Nervacero: Nervacero submitted[107] that it seems that rebar coil exported by Daehan (Korea) was the lowest priced in most months during the investigation period and that Daehan undercut OneSteel's prices in 10 months during the investigation period. Thus Daehan's prices were the key factor impacting on OneSteel's prices and imports from Nervacero and Greece were not. SEF 418's dismissal of the effect of rebar coil exports not subject to investigation makes no sense in the context of the non-attribution requirements of the WTO Anti-Dumping Agreement and the Act. The Commissioner has initiated an anti-circumvention inquiry against Daehan and the alleged circumvention period is identical to the investigation period in this case. This is as good as an admission that exports of rebar coils from Korea were the cause of OneSteel's injury in the investigation period. Further, SEF 418 does not address rebar coils from other sources. From OneSteel's application it appears that rebar coils from Singapore also appear to represent a substantial source of imports.

Sidenor: Sidenor submitted[108] that material injury to OneSteel cannot be attributed to the exporters of rebar coils subject to this investigation because rebar coils from an exporter not subject to this investigation was the price leader against which OneSteel benchmarked its FIS prices for 11 out of the 12 months of the investigation period. The exporters of rebar coils that are subject to this investigation were not the drivers of OneSteel's low prices in the investigation period. This assumption is based on OneSteel's filing of an application for an anti-circumvention inquiry. The non-attribution principles of the WTO Anti-Dumping Agreement must be applied.

Government of Spain: The Government of Spain submitted[109] that it did not share the opinion of the Commission that one single exporter that accounts for 10 percent of imports with prices that are at the same or lower levels than those of the subject countries has not been taken into account in the assessment.

9.8.2.2 Commissioner's consideration

The Commissioner notes that the Material Injury Direction provides that dumping (or subsidisation) need not be the sole cause of injury to the Australian industry. It must however not be insignificant or immaterial. In accordance with subsection 269TAE(2A)(a), the Commissioner must examine other factors to ensure that he is not attributing injury from other factors to the imports from the subject countries found to be dumping. In performing this analysis the Commissioner does not have to quantify the injury caused by the other factors from the injury caused by the imports from the subject countries found to be dumping. Rather he has to ensure that he does not inflate an otherwise insignificant or immaterial injury to one that meets the threshold of material injury through incorrect attribution.

The Commissioner considers that while goods from the exporter not subject to this investigation were in the market and they undercut OneSteel's prices, the cumulative imports from the subject countries found to be dumping had a significant effect on the prices, market share and profits and profitability of the Australian industry. The Commission's market based pricing analysis (discussed at section 9.5.1) and price undercutting analysis (discussed at section 9.5.2) indicates that import offers from the

[107] Document 50, EPR 418.
[108] Documents 40 and 60, EPR 418.
[109] Document 46, EPR 418.

subject countries found to be dumping exerted a downwards pressure on OneSteel's prices for a majority of the investigation period. The subject countries found to be dumping exported significantly high volumes of rebar to Australia during the investigation period as compared to the export volumes from the exporter not subject to this investigation. The Commissioner is therefore satisfied that despite the effect of the imports from the exporter not subject to investigation in the market, the injury to Australian industry caused by the goods from the subject countries found to be dumping is material and significant.

The Commissioner has considered the effect of imports from other countries including Singapore. As discussed previously, the Australian market for rebar is supplied by imports from a number of countries, including countries that are not currently subject to measures and 'other' countries that are not subject to measures or this investigation. The Commission's analysis of import volumes indicates that the proportion of imports from other countries (i.e. not subject to measures and not subject to this investigation) declined from 54 per cent of overall imports in 2014 to approximately 5 per cent of the overall volume of imports in 2016. Based on the low volumes of imports from 'other countries', the Commissioner considers that these imports are unlikely to have influenced the overall market prices. There is no evidence that import prices from 'other countries' significantly influenced prices in the market during the investigation period.

9.8.3 Negligibly dumped goods

The Commissioner has found that goods exported from Indonesia by Ispat and Putra Baja Deli were dumped but the dumping margins were negligible. During the investigation period, imports from the subject countries accounted for 67 per cent of all rebar imports. During that period, the volume of imports from these two exporters amounted to less than 10 per cent of the overall volume of rebar imports (from all sources including countries subject to measures and other countries).

The Commissioner considers that while goods from Ispat and Putra Baja Deli were in the market and they undercut OneSteel's prices, the cumulative imports from the subject countries found to be dumping above negligible levels had a significant effect on the prices, market share and profits and profitability of the Australian industry. The Commission's market based pricing analysis (discussed at section 9.5.1) and price undercutting analysis (discussed at section 9.5.2) indicates that import offers from the subject countries found to be dumping exerted a downwards pressure on OneSteel's prices for a majority of the investigation period. The subject countries found to be dumping exported significantly higher volumes of rebar to Australia during the investigation period as compared to the export volumes from Ispat and Putra Baja Deli. As discussed at section 9.4.1 of this report, the Commissioner is satisfied that excluding Putra Baja Deli and Ispat from the Commission's market share analysis does not affect his finding that OneSteel experienced a decline in market share in 2016 as compared to 2015. Accordingly, the Commissioner is satisfied that despite the presence of the negligibly dumped goods from Ispat and Putra Baja Deli in the Australian market, the cumulative exports from the subject countries found to be dumping had a significant effect on the prices, market share and profits and profitability of the Australian industry.

9.8.4 Effect of scrap prices

9.8.4.1 Submissions from interested parties

Nervacero: In its submission prior to the publication of SEF 418[110], Nervacero queried whether OneSteel's own costs and inefficiencies were responsible for the injury that it had suffered. In particular Nervacero questioned whether OneSteel's purchase price for scrap was too high noting that OneSteel purchases scrap from its related party entities. Nervacero suggested that the Commission should request records specific to Liberty OneSteel Recycling to better understand whether the overall profit of activities involved with rebar production is greater within the Liberty OneSteel group than is reflected only in OneSteel's records. In a meeting with the Commission, Nervacero claimed that the gap between inputs (and scrap) in particular and rebar pricing was twice as high in Australia as it was in other countries.

Government of Spain: The Government of Spain queried[111] whether scrap costs were behind OneSteel's increase in costs in the last two quarters of the investigation period as OneSteel is highly dependent on scrap imports.

OneSteel: OneSteel submitted[112] that claims that it sources scrap from its related entities are false. OneSteel sources the majority of its scrap from unrelated parties. The scrap that it purchases from related parties are made at arm's length.

9.8.4.2 Commissioner's assessment

The Commissioner is satisfied on the basis of its analysis of ABF import data that OneSteel is not highly dependent on scrap imports. The Commissioner is also satisfied on the basis of the evidence provided by OneSteel and verified by the Commission that it sources the majority of its scrap from unrelated entities and that over the investigation period, its scrap purchase prices followed the global trend in scrap prices. The Commission's analysis of scrap prices is at **Confidential Appendix 6.**

9.8.5 High cost increases

9.8.5.1 Submissions from interested parties

Government of Spain: The Government of Spain requested clarification[113] regarding the high cost increases in the last two quarters of the investigation period. It stated that SEF 418 explained that this increase was due to rising coke prices and weather events but it is difficult to understand how weather events can affect the domestic industry and additionally the rebar industry is not highly dependent on coke prices.

European Commission: The European Commission also requested clarification[114] of the high cost increases in the last two quarters of the investigation period.

Nervacero: Nervacero drew the attention of the Commission[115] to the a power blackout in South Australia which clearly affected Arrium's operations and operational costs in

[110] Document 34, EPR 418.
[111] Document 46, EPR 418.
[112] Document 38, EPR 418.
[113] Document 46, EPR 418.
[114] Document 49, EPR 418.
[115] Document 50, EPR 418.

Whyalla claiming that it was alarming that event of such significance had not been raised in the Commission's consideration as an injurious factor unrelated to dumping.

9.8.5.2 Commissioner's consideration

The Commissioner notes that OneSteel's raw material cost increases in the last two quarters of the investigation period coincided with increases in coaking coal and scrap prices. The increases in international coking coal prices in the last quarter of the investigation period were due severe weather events in Queensland that caused the flooding of mines. The Commissioner considers OneSteel's cost increases in the last two quarters of the investigation period are not injurious factors that have caused injury to Australian industry producing like goods. Rather the Commissioner considers that due to the presence in the Australian market of goods from the subject countries found to be dumping, OneSteel was unable to raise its prices to cover its increases in costs and it experienced injury in the form of reduced profits and profitability.

9.8.6 Increased capacity in 2015 and 2016

9.8.6.1 Submissions from interested parties

European Commission: The European Commission queried[116] whether OneSteel's increased capacity in 2015 and 2016 and the investments related to this increase of capacity may have had an impact on its situation.

Government of Spain: The Government of Spain[117] noted that the Commission had not assessed how increased capacity in 2015 and 2016 would have affected profits, profitability and return of investment.

9.8.6.2 Commissioner's consideration

The Commissioner's analysis of the information provided by OneSteel along with application regarding other economic indicators does not indicate a marked increase in capacity in 2015 and 2016. It is not clear how a slight increase in capacity might have caused injury to OneSteel. No evidence has been provided to support claims that an increase in capacity affected OneSteel's profits and profitability. The Commissioner therefore cannot place any weight on the suggestions that OneSteel's increased capacity in 2015 and 2016 caused it injury rather than dumped imports.

9.8.7 Cost and uncertainties of voluntary administration

9.8.7.1 Submissions from interested stakeholders

Nervacero: Nervacero in its submission prior to the SEF[118] questioned whether the Commission had undertaken a forensic examination of the applicant's accounts to understand the costs generated by the applicant's being in voluntary administration.

Neumann Steel: Neumann Steel in its submission prior to SEF 418[119] stated that OneSteel's ability to supply when in voluntary administration represented a risk for Neumann Steel's supply obligations towards its own customers.

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[116] Document 49, EPR 418.
[117] Document 46, EPR 418.
[118] Document 34, EPR 418.
[119] Document 35, EPR 418.

9.8.7.2 Commissioner's consideration

The Commissioner notes that the cost of voluntary administration was allocated across the Arrium Group and was not borne by Australian industry producing like goods (i.e. OneSteel) alone. Also, while a company is in voluntary administration there are other cost savings for example, the costs associated with salaries for its senior executives and costs associated with contracts that are terminated. The Commissioner's Analysis of Steel and Aluminium Markets Report[120] had noted that Arrium's administrator Korda Mentha was targeting $300 millon in total annualised cost savings since the commencement of savings in October 2015 (prior to Arrium entering into administration). The Commission's verification of OneSteel's financial information did not disclose a significant increase in SG&A costs during the investigation period. The Commissioner therefore does not consider that the cost of voluntary administration was significant such as to cause injury to Australian industry producing like goods.

The Commissioner has considered whether OneSteel's being in voluntary administration would have created uncertainty regarding its ability to supply the market and therefore been a cause of injury. The evidence indicates that OneSteel's sales volume increased during the investigation period and that it continued to supply all its customers despite increased demand. The Commissioner therefore considers that the uncertainties associated with voluntary administration were not a factor causing injury.

9.8.8 Efficiency of the Australian industry

9.8.8.1 Submissions from interested parties

European Commission: The European Commission submitted[121] that it appeared that Australian industry had suffered losses before the investigation period and that this suggests the Australian industry suffers from a lack of competitiveness rather than problems caused by imports. It noted that SEF 418 had stated that OneSteel was profitable in 2016 and because of that the losses were not structural but that facts confirms that lack of competiveness since in that year imports were at their lowest level due to different anti-dumping investigations and measures.

Nervacero: Nervacero submitted[122] that the Commission must discharge its obligation to positively investigate other causes of injury.

9.8.8.2 Commissioner's consideration

There is no evidence to suggest that OneSteel's operations are inefficient such that the inefficiency is another cause of injury. The Commission notes that OneSteel has improved productivity during the injury period. Without any evidence to support assertions that OneSteel is operating an inefficient business, the Commissioner cannot place any weight on arguments that inefficiency of operations within OneSteel's rebar business has caused injury rather than, or to a far more significant extent, than dumped imports.

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[120] Page 64, Analysis of Steel and Aluminium Markets, 9 September 2016.
[121] Document 49, EPR 418.
[122] Documents 34 and 50, EPR 418.

9.8.9 Supply issues

Plascorp Pty Ltd (Plascorp): Plascorp, an importer of the subject goods, submitted that in the absence of a local alternative, it had no option but to import the goods.[123] Plascorp submitted that OneSteel's related customer, OneSteel Reinforcing, refused to supply to Plascorp because it did not have capacity and Plascorp "do not fit their customer profile".

SRCM Pty Ltd (SRCM): SRCM submitted[124] that it competes directly with OneSteel and its downstream subsidiaries. It is highly uncompetitive if it is unable to buy directly from OneSteel's market mills. It was offered the option of buying from OneSteel on the condition that it purchases 80 per cent of its steel requirements from OneSteel at its current market price which was high. It needs imported steel so that its cost and volume of production is not known to its competitor and it needs imported steel supplied as competitively as possible to compete with OneSteel/ARC.

Lyndons: Lyndons submitted[125] that it established a direct buying arrangement with OneSteel in 2015 after much effort but that arrangement was terminated in October 2017. Lyndons believes there was no reason to terminate the agreement other than to prejudice Lyndons ability to compete in the market. The only alternative source of rebar would be from Lyndons' downstream competitors and the cost would be at retail pricing, which would render Lyndons uncompetitive in the local market.

Sanwa and Nervacero: Sanwa and Nervacero at a meeting with the Commission claimed that[126]:

- OneSteel does not have the capacity to supply the market;
- some independent processors who previously had access to rebar from OneSteel have been told that their direct access supply will be cut. Some independent processors have had quotas placed on the amount of rebar that they can access directly from OneSteel;
- The biggest complaint of the independent processors is that if they do not have direct mills access, then they have to purchase domestic rebar from their competitors (ARC and OneSteel Reo) at prices which are too high to be competitive; and
- the current shortage in the market has led to OneSteel looking to source rebar from overseas post the investigation period.

OneSteel: In its submission[127] in response to Lyndons submission, OneSteel stated that it does not refuse to sell to local distributors and the arrangement with Lyndons was terminated because it did not meet the terms of the supply agreement.

Other submissions in relation to supply issues have been considered at section 9.4.4 of this report.

[123] Document 22, EPR 418.
[124] Document 43, EPR 418.
[125] Document 44, EPR 418.
[126] Document 31, EPR 418.
[127] Document 55, EPR 418.

9.8.9.1 Commissioner's consideration

The Commissioner understands that OneSteel does not supply rebar to all participants in the Australian market; rather it supplies rebar to customers who are larger distributors and who are willing to agree to the terms of its Supply Agreement.

The Commissioner considers that the submissions above indicate an inability between parties to reach agreement (regarding the volume requirements imposed by OneSteel and price) rather than OneSteel's lack of capacity to supply the market. The submissions also indicate that end users who compete with OneSteel's related customers in the downstream rebar processing market may not consider it commercially viable to solely rely on their largest competitor as a supplier of rebar.

The Commissioner accepts that if OneSteel does not supply the entire market, some portion of the market would need to source rebar from overseas or purchase rebar from a distributor (including from OneSteel's related entities where they are able to enter into an agreement with those entities). The Commissioner notes that the Australian market is supplied by countries currently subject to measures and other countries (not subject to measures or this investigation) and these sources of supply continue to be available.

As mentioned previously, the Commissioner is satisfied that OneSteel's sales to its related entities are at arm's length. OneSteel has refuted the submission from Lyndons stating that it terminated the arrangement with Lyndons as Lyndons did not meet the terms of the agreement. While the submissions noted above suggest that OneSteel's adopts trade practices that provide its downstream related party entities with a competitive advantage, they do not enable the Commissioner to draw any conclusion that the injury experienced by OneSteel is due to its own practices.

As noted previously, OneSteel's ability or inability to supply the entire market does not affect the Commissioner's findings regarding price injury which are discussed at section 9.5 of this report

9.8.10 High conversion costs

1.1.1.2 Submissions from interested parties

Nervacero/Sanwa: Nervacero and Sanwa at a meeting with the Commission stated[128] that conversion costs were twice as high in Australia as in other steel producing countries.

Nervacero:In its submission prior to the publication of SEF 418,[129]Nervacero asked the Commission to consider whether OneSteel's conversion costs were too high. It referred to the 'spread' between the steel scrap purchase price and the price of the finished goods and submitted that it is generally considered that Australian industry has a larger spread than the rest of the world. It stated that an internal inefficiency such as this would render the Australian industry uncompetitive.

Government of Spain: The Government of Spain submitted[130] that the Commission should examine OneSteel's conversion costs.

[128] Document 32, EPR 418.
[129] Document 34, EPR 418.
[130] Document 46, EPR 418.

OneSteel: OneSteel in its response to the claims by Sanwa and Nervacero submitted that:[131]

- if the prices in Australia were twice as high in Australia as compared to other steel producing countries, why was it that exporters such as Nervacero were choosing to dump to compete in the market; and
- Nervacero's regional market of Southern Europe has much higher prices for rebar than the Asian markets that Australia competes against.

9.8.10.1 Commissioner's consideration

The Commissioner has based his assessment on verified data and has no evidence that indicates that OneSteel's conversion costs have caused it injury rather than dumped imports.

9.8.11 Export sales

Given the small proportion of OneSteel's export sales, the Commissioner considers that OneSteel's export performance is not a factor causing injury.

9.8.12 Materiality of injury

In the context of a growing Australian rebar market, the Commissioner considers that the injury suffered by the Australian industry producing like goods that is caused by dumped imports from the subject countries found to be dumping is greater than that likely to occur in the normal ebb and flow of business. The Commissioner has noted that OneSteel has lost market share in a growing market and has experienced price suppression during the investigation period. When considered as a whole, these factors have adversely impacted on OneSteel's profits and profitability in relation to rebar. Having assessed the circumstances and the totality of the evidence of volume, price and profit effects collectively and not in isolation, and after taking into account all relevant economic factors, the Commissioner is of the view that the injury to the Australian industry producing like goods from dumping is material.

9.8.13 Causation

For all the reasons discussed above, the Commissioner considers that the injury suffered by OneSteel is directly attributable to dumped exports from the subject countries found to be dumping.

[131] Document 38, EPR 418.

10 WILL DUMPING AND MATERIAL INJURY CONTINUE

10.1 Finding

The Commissioner considers that exports of rebar from the subject countries (except for exports from Indonesia by Ispat and Putra Baja Deli) in the future may be at dumped prices, and that continued dumping may cause further material injury to the Australian industry.

10.2 Introduction

Pursuant to subsection 269TG(2), where the Parliamentary Secretary is satisfied that material injury to an Australian industry producing like goods has been caused by dumping, measures may be imposed on future exports of like goods if the Parliamentary Secretary is satisfied that the dumping and material injury may continue.

10.3 Likelihood that dumping and material injury may continue

The Commission has analysed data from the ABF import database subsequent to initiation of the investigation on 27 June 2017. The Commission's analysis indicates that on a monthly basis, import volumes from the subject countries have fallen but have continued.

Based on this data, the Commissioner considers that the initiation of this investigation may have temporarily caused some exporters and importers to change their behaviour. OneSteel has submitted that there is a shortage in seaborne low margin rebar that is affecting the Australian market.

However, the Commissioner does not consider the reduction in import volumes since the initiation of the investigation to be reflective of typical market conditions, such that it would render the imposition of measures unnecessary. Noting that the Commission's import trend analysis indicates a perceptible, significant shift over the injury analysis period that can be linked to Investigation 264 and Investigation 300 and the imposition of securities and measures as a result of those investigations, the Commissioner considers that without the imposition of measures, it is likely that the import volumes of dumped goods will begin to rise.

The Commissioner has found in the preceding chapters of the report that exports from the subject countries were at dumped prices during the investigation period. The Commissioner considers that the continuation of price competition from dumped imports is likely to have a continuing adverse impact on the Australian industry.

Current supply issues

As noted previously at section 9.4.4 of this report, submissions to Investigation 418 have claimed that OneSteel is unable to meet the current demand in the rebar market and that in the period independent processors have had quotas placed on the amount of rebar they can access with OneSteel only supplying 60 to 70 percent of their requested supply. The Commissioner has considered whether OneSteel's inability to supply market demand would mean that injury due to dumping is unlikely to continue.

The Commissioner has found that OneSteel experienced material injury due to price suppression during the investigation period.

In circumstances where OneSteel is unable to supply market demand (noting that the Commissioner has not made any finding on this issue but is simply addressing claims made in submissions) the Commissioner considers that Australian industry will continue to experience material injury due to price suppression if dumping continues.

11 NON-INJURIOUS PRICE

11.1 Finding

The Commission has found that the non-injurious price (NIP) for dumped goods from the subject countries found to be dumping is not lower than the normal values of the goods from those countries. As a result, the Parliamentary Secretary is not required to consider imposing a lesser rate of duty, and the Commissioner recommends that duties be imposed at the full margin of dumping.

11.2 Final assessment of NIP

Interim dumping duty (IDD) may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods.

Lesser Duty Rule

The level of IDD imposed by the Parliamentary Secretary cannot exceed the margin of dumping but the Parliamentary Secretary must have regard to the desirability of fixing a lesser amount of duty if the NIP is less than the normal value of the goods. This requirement is commonly referred to as the 'lesser duty rule'.

Pursuant to subsection 8(5BAA) of the Dumping Duty Act, the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances.

However, as the NIP is not less than the normal value of the goods, subsection 8(5B) of the Dumping Duty Act is not engaged and the Parliamentary Secretary is not required to have mandatory consideration of the lesser duty rule.

11.3 Approaches to establishing a NIP

The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping.

Anti-dumping measures are generally based on FOB prices in the country of export.

Therefore a NIP is calculated in FOB terms for the country of export. To arrive at a NIP, the Commission first establishes a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission's preferred approach to establishing the USP observes the following hierarchy:

- market approach using the Australian industry's weighted average selling price at a time when the Australian market was unaffected by dumping;
- construction approach using the Australian industry's CTMS, plus where applicable, a reasonable rate of profit; or
- selling prices of un-dumped imports.

11.4 Submissions from interested parties

SEF 418 proposed to set the NIP equal to the exporter's normal values, on the basis that the injury caused by dumping is due to OneSteel's matching of import prices. The

Commission received the following submissions on the Commission's proposed approach to establishing the NIP.

Neumann Steel: Neumann Steel submitted[132] that

- SEF 418's proposal to set the NIP at the level of the normal values found for each exporter significantly disadvantages Neumann Steel as an importer of Greek rebar as the finding made in SEF 418 is that the normal values for Greek exports was 42 per cent higher than the respective export prices;
- the Act defines the NIP as 'the minimum price necessary to prevent injury, or the recurrence of injury'. As a matter of statutory interpretation there can be only one 'minimum price necessary to prevent injury'. Setting NIPs to individual normal values results in a finding that there may be numerous minimum prices necessary to prevent recurrence of injury. This risks the dumping measures exceeding that which is necessary to prevent the injury from continuing;
- there were imports from a country not subject to this investigation that have more significantly undercut OneSteel's prices. Neumann Steel believes that the correct approach to determining a NIP would be to set it at the export price applicable to those imports.

Nervacero: Nervacero submitted[133] that the NIP price determination is wrong. It stated that

- SEF 418 failed to ensure non-attribution of any injurious effects of undumped imports and of exports not subject to investigation but then deemed that dumping by the countries subject to investigation caused all those other exports to be unsuitable for determining a NIP;
- the statement in SEF 418 that the Commission cannot determine that the price of rebar imported into Australia from other countries is a suitable basis for the USP as it cannot ascertain if the prices of the goods from those countries have been unaffected by the selling price of dumped rebar from the subject countries amounts to rendering competition from undumped import prices as being competition from the dumped imports.
- it took issue with the statement in SEF 418 that in a market unaffected by dumping, as the price of imports would be higher at least by the dumping margins found, it would be expected that OneSteel's prices would also be higher by at least the percentage of the dumping margins found. It stated that the comment failed to recognise that there were sources in the market that compete with OneSteel, some subject to dumping duty, some not so subject but not subject to measures; that OneSteel did not set its prices only with regard to import prices subject to this investigation; and that in respect to rebar coils, exports not subject to investigation undercut OneSteel's prices to a far greater extent than Nervacero almost continually during the investigation period;
- it is therefore incorrect and unreasonable to determine the NIP for each exporter based on its normal value;
- the Commission has established that there were significant volumes of imports other than the dumped imports subject to investigation and the anti-circumvention inquiry initiated by the Commission reveals that goods subject to dumping duty

[132] Document 53, EPR 418.
[133] Document 50, EPR 418.

were responsible for undercutting OneSteel's prices for a majority of the investigation period;

- the purpose of the NIP is to find the point at which Australian industry is not materially injured. Accordingly the NIP for Nervacero must be worked out at the level of lowest normal value of any of the exporters; and the lowest export price from any exporter found not to be dumping or not subject to investigation; and OneSteel's own import price as buyer of rebar coils from Nervacero.
- it submitted that Nervacero's own exports of rebar coils to OneSteel must be considered naturally non-injurious given the identity of the customer and that Nervacero's price to other customers can only be considered to be injurious to the extent that it is lower than OneSteel's prices.
- If the Commission insists on cumulating rebar straights and rebar coils and maintains its position regarding the interchangeability of rebar straights and coils then the NIP would need to be worked out on the lower-priced rebar straights.

OneSteel: In relation to Sidenor's submission that the NIP should be set by reference to the export price of the exporter not subject to investigation, OneSteel[134] noted the initiation of the recent anti-circumvention inquiry by the Commissioner and submitted that in the circumstances the export price of the Korean exporter would not provide a sound basis to establish the NIP. It also noted (in relation to Sidenor's submission below) that the approach suggested by Sidenor that the Commissioner use the normal value of exports from Spain is unknown in policy and fails to serve the key element of establishing a NIP which is based on a USP. In a further submission[135], OneSteel supported not using the price of undumped imports for establishing the USP.

Sidenor: Sidenor submitted[136] that the Commission is required to establish a NIP for rebar coils at the level of the export price observed during the investigation with respect to the 'exporter not subject to this investigation' which is likely to be Korean exporter Daehan, or at the normal value of the exporter from Spain. A NIP higher than that would be at a level more than the minimum price necessary to prevent the injury concerned and would therefore offend against the relevant statutory provisions (i.e. subsection 8(5b) of the Dumping Duty Act and section 269TACA of the Act).

In a further submission[137], Sidenor responded to OneSteel's submission to clarify that if exports of spooled coil were permitted to be imported into Australia at the level of the normal value for Spain (Nervacero), then there would be no basis for the NIP with respect to imports from Greece to result in a higher correction to the prices of Greek imports than the correction pertaining to those from Spain.

11.5 Commissioner's consideration

The Commissioner considers that in this instance determining the NIP based on Australian industry's selling prices in a period unaffected by dumping is not appropriate due to the previous dumping cases for rebar and the Commission's findings in those investigations that the market was affected by dumping.

The Commissioner also considers that a constructed price based on OneSteel's production costs incurred during the investigation period plus an amount for profit is not

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[134] Document 59, EPR 418.
[135] Document 62, EPR 418.
[136] Document 52, EPR 418.
[137] Document 60, EPR 418.

appropriate for similar reasons. The Commission is unable to determine an appropriate amount for profit based on historical data. One Steel submitted that a profit amount of 17 per cent was reasonable based on a publicly available report from 2013 that considered a sample of 65 companies worldwide and found that the minimum global average earnings before interest, tax, depreciation and amortisation (EBITDA) margin for long term sustainability in the steel industry was 17 per cent.[138] The Commissioner does not consider that the profit amount suggested by OneSteel that is based on an analysis of 65 companies worldwide conducted in 2013, is a suitable basis for determining an USP in the current Australian market without a full assessment of the assumptions underpinning that analysis.

The Commissioner has next considered whether the selling price of undumped imports into the market is an appropriate basis for the USP. After assessing this option, the Commissioner has concluded that this option would be insufficient to prevent injury caused by dumping. In the course of this investigation the Commissioner has established that OneSteel prices are influenced by a number of different price offers in the market. OneSteel does not set its price to individual customers according to the lowest price offer in the market (see the discussion at section 9.5.1 of this report). It is for this reason that the Commissioner has found that dumped imports have caused injury to OneSteel despite the presence of lower priced imports from countries not subject to investigation and negligibly dumped imports in the market.

The Commissioner has therefore considered an alternative method of determining the NIP, which is that the NIP should be based on the undumped price for each exporter. It is reasonable to expect that OneSteel will continue to implement its market based pricing policy in the future in a market unaffected by dumping as the market would continue to be supplied by imports subject to measures and other imports. The Commissioner considers that setting the NIP at the normal values is the most effective way to remove the effects of dumping.

The Commissioner does not accept Neumann Steel's submission that there can only be one NIP to prevent injury. The Commissioner notes that in practice the Commission generally establishes a single USP being the price at which the Australian industry is not injured. However, a range of post exportation costs are then deducted to bring the USP back to the NIP at a FOB equivalent price for each exporter. In practice the NIP is thus different for each exporter.

As described above, different price offers in the market from the subject countries found to be dumping have caused injury to OneSteel during the injury period, not just the lowest price offer. The Commissioner considers that the NIP should be established at the level that 'corrects' these prices so that they are not dumped prices in order to prevent the recurrence of the injury to OneSteel. The Commissioner does not accept Nervacero's submission that as Nervacero's own exports of rebar coils to OneSteel must be considered naturally non-injurious given the identity of the customer, Nervacero's price to other customers can only be considered to be injurious to the extent that it is lower than OneSteel's prices. The Commissioner has established that OneSteel prices are influenced by a number of different price offers in the market. While OneSteel cannot be injured by its own imports, OneSteel does not set its price to individual customers

[138] Attachment 1, Document 25, EPR 418.

according to the lowest price offer in the market. It can therefore be injured by all the dumped price offers in the market including Nervacero's price.

The Commissioner therefore does not agree with the various approaches proposed by Sidenor, Nervacero and Neumann Steel for the establishment of the NIP.

12 ANTI-DUMPING MEASURES

12.1 Finding

The Commissioner recommends to the Parliamentary Secretary that measures be imposed as a combination of fixed and variable duty methods.

An amount of duty worked out to be the fixed duty element of the combination duty is to be ascertained as a proportion of the export price.

12.2 Form of measures available

The forms of duty available when implementing measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method (combination method);
- floor price duty method;
- fixed duty method ($X per tonne); or
- ad valorem duty method (i.e. a percentage of the export price).

In considering which form to use, the Commission has had regard to its published Guidelines on the Application of the Form of Dumping Duty (the Guidelines), relevant factors in the rebar market and a submission from the applicant.

The Guidelines set out issues to be considered when determining the form of duties. The various forms of dumping duty available all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than other forms of duty.

12.3 Form of securities applied following PAD 418

Following publication of PAD 418, the Commonwealth took securities in respect of IDD that may become payable on goods exported from the subject countries found to be dumping. The securities were calculated in accordance with the ad valorem method.

12.4 Consideration in SEF 418

SEF 418 stated that on balance at that stage, the Commission considered that because of the price volatility in the rebar market the *ad valorem* duty method may be the most appropriate method in this case. The Commission had found no evidence that transactions between importers and exporters are not at arm's length. Adopting the ad valorem method would also be consistent with the approach as a result of REP 264 in relation to Spain and Taiwan.

However, SEF 418 noted that there may be circumstances that favour adopting the combination method that may not have been fully considered.

12.5 Submissions from OneSteel

At the Australian industry verification visit, OneSteel made representations to the Commission that the combination duty method is the most effective form of duty. OneSteel submitted that the strength of the combination method is the use of the variable duty element, which acts as a floor price to capture additional IDD if the exporter reduces the price.

In its submission to SEF 418, OneSteel submitted that it supports the combination method of IDD calculation which is calculated as follows:

Fixed component of IDD: dumping export price (DXP) or ascertained export price (AEP) whichever is the greatest, multiplied by the applicable IDD ad valorem rate.

Variable component of IDD: the amount, if any by which the DXP is lower than the AEP

It noted that:

- duty assessments are available to importers where there is any overpayment of duty;
- the ad valorem method is ineffective in capturing the total final duty liability when the exporter lowers the export price further below normal value. The applicant industry then has no capacity to remedy the injury caused by increased rates of dumping;
- combination method of duty does not suffer from the same ineffectiveness;
- adopting the ad valorem method for consistency with the approach in REP 264 is not justified in light of the clear advantages of the combination method.
- There is no evidence of a large or disparate number of models.

12.6 Commissioner's consideration

The Commissioner notes that the Guidelines state that the combination of fixed and variable duty method, like the floor price duty method and the fixed duty method, may not suit those situations where there are many models or types of the good with significantly different prices. The Commissioner has not found evidence of significantly different prices for different rebar product types (rebar coils and rebar straights).

The Guidelines note that the 'effective' rate of a combination duty increases in a declining market making it punitive. The Commission observes that rebar prices both globally and in the Australian market have been showing an upwards trend since the end of the investigation period.

The Guidelines note that a potential disadvantage of ad valorem duties is that export prices might be lowered to avoid the effects of duties. The Guidelines explain that in cases where exporters have room to further decrease their export prices, and the market is sensitive to price, a duty method is needed that would prevent further price decreases. In those circumstances, a fixed amount of duty or an ad valorem duty would not prevent a fall in prices.

The Commission has established that the Australian rebar market is price sensitive. The Commissioner considers that the evidence indicates a willingness by exporters subject to this investigation to lower their prices and despite the potential for anti-circumvention provisions to apply, an ad valorem only form of duty may not be appropriate.

The Commissioner therefore considers that the advantages of the combination method outweigh its drawbacks for this investigation.

12.7 Recommended measures

The Commissioner recommends that IDD be calculated using the combinations method (i.e. a combination of fixed and variable duty method).

The IDD ad valorem rate will be an amount calculated at the full dumping margins, as tabulated below. The fixed component will be the IDD ad valorem rate applied to the higher of the ascertained export price or the actual export price. The variable component will be the difference between the ascertained export price and the actual export price

Country	Exporter	Dumping margin	Duty method
Greece	Uncooperative and all other exporters	42.1%	Combination
Indonesia	Uncooperative and all other exporters	9.3%	Combination
Spain	Nervacero	7.5%	Combination
Taiwan	Power Steel	4.4%	Combination
Thailand	Millcon Steel	9.3%	Combination
	Uncooperative and all other exporters	11.9%	Combination

Table 8: Dumping margins and duty methods

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13 RECOMMENDATIONS

The Commissioner is satisfied that:

- the dumping of rebar exported to Australia from Greece, Indonesia (except by Ispat and Putra Baja Deli), Spain (by Nervacero), Taiwan (by Power Steel) and Thailand

has caused material injury to the Australian industry producing like goods

The Commissioner recommends the Parliamentary Secretary impose:

- dumping duties on rebar exported to Australia from Greece, Indonesia (except exports by Ispat and Putra Baja Deli), Spain (by Nervacero), Taiwan (by Power Steel) and Thailand as tabulated below:

Country	Exporter	Dumping margin
Greece	Uncooperative and all other exporters	42.1%
Indonesia	Uncooperative and all other exporters	9.3%
Spain	Nervacero	7.5%
Taiwan	Power Steel	4.4%
Thailand	Millcon Steel	9.3%
	Uncooperative and all other exporters	11.9%

Table 9 - Recommended dumping duties

The Commissioner recommends the Parliamentary Secretary be satisfied:

for all subject countries:

- in accordance with subsection 269TG(1) the amount of the export price of rebar exported to Australia from Greece, Indonesia (except by Ispat and Putra Baja Deli), Spain (by Nervacero S.A.), Taiwan (by Power Steel Co Ltd) and Thailand is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods would have been caused if security under section 42 had not been taken;
- in accordance with subsection 269TG(2) the amount of the export price of rebar that has already been exported to Australia from Greece, Indonesia (except by Ispat and Putra Baja Deli), Spain (by Nervacero S.A.), Taiwan (by Power Steel Co Ltd) and Thailand is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia from Greece in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been caused;
- in accordance with subsection 269TAE(2C), the cumulative effect of exportations of rebar exported from Greece, Indonesia (other than by PT Ispat Panca Putera and PT Putra Baja Deli), Thailand, Spain (by Nervacero S.A) and Taiwan (by Power Steel Co Ltd) can be considered because:
    - each of the exportations is the subject of an investigation;

- the investigations of those exportations resulted from applications lodged with the Commissioner on the same day;
- the margin of dumping from Greece, Indonesia (other than by PT Ispat Panca Putera and PT Putra Baja Deli), Thailand, Spain (by Nervacero S.A) and Taiwan (by Power Steel Co Ltd) is not negligible;
- the volume of imports from each country is not negligible; and
- a cumulative assessment is appropriate in light of the conditions of competition between the imported goods and the conditions of competition between the imported goods and the like domestic goods.

for Greece

- in accordance with subsection 269TAB(3), that sufficient information has not been furnished, and is not available, to enable the export price of steel reinforcing bar (rebar) exported to Australia from Greece by the category of 'uncooperative and all other exporters' to be determined under subsection 269TAB(1).
- in accordance with subsection 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of rebar exported to Australia from Greece by the category of 'uncooperative and all other exporters' to be ascertained under the preceding subsections of 269TAC (other than subsection 269TAC(5D)).
- the weighted average of export prices over the investigation period is less than the weighted average of corresponding normal values over that period and therefore, in accordance with subsection 269TACB(4):
  - that rebar exported to Australia from Greece is taken to have been dumped; and
  - the dumping margins for those goods is the difference between the weighted average of export prices during the investigation period and the weighted average of normal values during that period;

for Indonesia

- in accordance with subsection 269TAB(3), that sufficient information has not been furnished, and is not available, to enable the export price of rebar exported to Australia from Indonesia by the category of 'uncooperative and all other exporters' to be determined under subsection 269TAB(1).
- in accordance with subsection 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of rebar exported to Australia from Indonesia by the category of 'uncooperative and all other exporters' to be ascertained under the preceding subsections of 269TAC (other than subsection 269TAC(5D)).
- the weighted average of export prices over the investigation period is less than the weighted average of corresponding normal values over that period and therefore, in accordance with subsection 269TACB(4):
  - that rebar exported to Australia from Indonesia is taken to have been dumped; and
  - the dumping margins for those goods is the difference between the weighted average of export prices during the investigation period and the weighted average of normal values during that period;

for Thailand

- in accordance with subsection 269TAB(3), that sufficient information has not been furnished, and is not available, to enable the export price of rebar (rebar) exported to Australia from Thailand by the category of 'uncooperative and all other exporters' determined under subsection 269TAB(1).
- in accordance with subsection 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of rebar exported to Australia from Thailand by the category of 'uncooperative and all other exporters' to be ascertained under the preceding subsections of 269TAC(1) (other than subsection 269TAC(5D)).
- the weighted average of export prices over the investigation period is less than the weighted average of corresponding normal values over that period and therefore, in accordance with subsection 269TACB(4):
    - that rebar exported to Australia from Thailand is taken to have been dumped; and
    - the dumping margins for those goods is the difference between the weighted average of export prices during the investigation period and the weighted average of normal values during that period;

The Commissioner recommends the Parliamentary Secretary determine:

for all countries

- in accordance with subsection 269TAAD(4), and for the purpose of working out the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arm's length transactions and are taken to have been in the ordinary course of trade, that the amounts for the cost of production or manufacture of rebar in Greece, Indonesia (other than by PT Ispat Panca Putera and PT Putra Baja Deli), Spain (by Nervacero S.A), Taiwan (by Power Steel Co. Ltd) and Thailand, and the administrative, selling and general costs associated with the sale of those goods are as set out in Confidential Appendix 2.

for Greece

- in accordance with subsection 269TAB(3), export prices for the category of 'uncooperative and all other' exporters having regard to all relevant information as set out in Confidential Appendix 2;
- in accordance with subsection 269TAC(6), normal values for the category of 'uncooperative and all other' exporters having regard to all relevant information as set out in Confidential Appendix 2;
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
    - that rebar exported to Australia from Greece is taken to have been dumped over the investigation period; and
    - the dumping margins for exporters in respect of those goods and that period is the difference between the weighted average of export prices over that period and the weighted average of corresponding normal values over that period;

for Indonesia

- in accordance with subsection 269TAB(3), export prices for the category of 'uncooperative and all other' exporters having regard to all relevant information as set out in Confidential Appendix 2;
- in accordance with subsection 269TAC(6), normal values for the category of 'uncooperative and all other' exporters having regard to all relevant information as set out in Confidential Appendix 2;
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
    - that rebar exported to Australia from Indonesia is taken to have been dumped over the investigation period; and
    - the dumping margins for exporters in respect of those goods and that period is the difference between the weighted average of export prices over that period and the weighted average of corresponding normal values over that period;

for Spain (by Nervacero)

- being satisfied that subsection 269TAB(1)(a) applies, that the export prices of rebar exported to Australia from Spain by Nervacero is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in Confidential Appendix 2;
- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in Spain in sales that are arms length transactions by Nervacero, that the normal values for exported models of rebar for Nervacero are as set out in Confidential Appendix 2;
    - as adjusted in accordance with subsection 269TAC(8), in order that the matters set out in subsection 269TAC(8) would not affect the comparison of normal values and export prices;
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
    - that rebar exported to Australia from Spain by Nervacero is taken to have been dumped over the investigation period; and
    - the dumping margins for Nervacero in respect of those goods and that period is the difference between the weighted average of export prices over that period and the weighted average of corresponding normal values over that period;

for Taiwan (by Power Steel)

- being satisfied that subsection 269TAB(1)(a) applies, that the export prices of rebar exported to Australia from Taiwan by Power Steel is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in Confidential Appendix 2;

- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in Taiwan in sales that are arms length transactions by Power Steel, that the normal values for exported models of rebar for Power Steel are as set out in Confidential Appendix 2;
    - as adjusted in accordance with subsection 269TAC(8), in order that the matters set out in subsection 269TAC(8) would not affect the comparison of normal values and export prices;
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
    - that rebar exported to Australia from Taiwan by Power Steel is taken to have been dumped over the investigation period; and
    - the dumping margins for Power Steel in respect of those goods and that period is the difference between the weighted average of export prices over that period and the weighted average of corresponding normal values over that period;

for Thailand

- being satisfied that subsection 269TAB(1)(a) applies, that the export prices of rebar exported to Australia from Thailand by Millcon Steel is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in Confidential Appendix 2;
- in accordance with subsection 269TAB(3), export prices for the category of 'uncooperative and all other' exporters having regard to all relevant information;
- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in Thailand in sales that are arms length transactions by Millcon Steel,that the normal values for exported models of rebar for Millcon Steel are as set out in Confidential Appendix 2;
    - as adjusted in accordance with subsection 269TAC(8), in order that the matters set out in subsection 269TAC(8) would not affect the comparison of normal values and export prices;
- in accordance with subsection 269TAC(6), normal values for the category of 'uncooperative and all other' exporters having regard to all relevant information;
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
    - that rebar exported to Australia from Thailand is taken to have been dumped over the investigation period; and
    - the dumping margins for exporters in respect of those goods and that period is the difference between the weighted average of export prices over that period and the weighted average of corresponding normal values over that period;

The Commissioner recommends the Parliamentary Secretary declare:

for Greece

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
    - the goods exported by all exporters from Greece to Australia; and
    - like goods that were exported to Australia by all exporters from Greece after the Commissioner made a PAD under section 269TD on 14 November 2017 but before publication of the notice;
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from Greece, after the date of publication of the notice;

for Indonesia

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
    - the goods exported by all exporters (except PT Ispat Panca Putera and PT Putra Baja Deli) from Indonesia to Australia; and
    - like goods that were exported to Australia by all exporters (except PT Ispat Panca Putera and PT Putra Baja Deli) from Indonesia after the Commissioner made a PAD under section 269TD on 14 November 2017 but before publication of the notice;
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from Indonesia (except PT Ispat Panca Putera and PT Putra Baja Deli), after the date of publication of the notice;

for Spain (by Nervacero)

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
    - the goods exported by Nervacero from Spain to Australia; and
    - like goods that were exported to Australia by Nervacero from Spain after the Commissioner made a PAD under section 269TD on 14 November 2017 but before publication of the notice;
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by Nervacero from Spain after the date of publication of the notice;

for Taiwan (by Power Steel)

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
    - the goods exported by Power Steel from Taiwan to Australia; and
    - like goods that were exported to Australia by Power Steel from Taiwan after the Commissioner made a PAD under section 269TD on 14 November 2017 but before publication of the notice;

- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by Power Steel from Taiwan after the date of publication of the notice;

for Thailand

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
    - the goods exported by all exporters from Thailand to Australia; and
    - like goods that were exported to Australia by all exporters from Thailand after the Commissioner made a PAD under section 269TD on 14 November 2017 but before publication of the notice;
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from Thailand, after the date of publication of the notice;

The Commissioner recommends the Parliamentary Secretary not have regard:

- in accordance with subsection 8(5B)(b) of the Dumping Duty Act, to the desirability of specifying a method such that the sum of amounts outlined in subsection 8(5B)(c) and (d) of the Dumping Duty Act as they relate to Greece, Indonesia (except for Ispat and Putra Baja Deli), Spain (by Nervacero), Taiwan (by Power Steel) and Thailand do not exceed the non-injurious price, in light of the findings at chapter 13 that the non-injurious price of goods of that kind as ascertained or last ascertained is equal to the normal value of goods of that kind as so ascertained or last so ascertained, and noting that in such circumstances the Parliamentary Secretary is not required to have regard to the desirability of fixing a lesser rate of duty;

The Commissioner recommends the Parliamentary Secretary be of the opinion that:

- for the purposes of comparison of the export prices of goods exported from Greece, Indonesia, Spain (exported by Nervacero S.A), Taiwan (by Power Steel Co. Ltd) and Thailand and corresponding normal values of like goods requiring a conversion where conversion is to be made using the rate of exchange on the date of transaction that best establishes the material terms of the sale of the exported goods, the date of the transaction that best establishes the material terms of the sale is the date of the invoice. The rate of exchange is as set out on the RBA website at http://www.rba.gov.au.

14 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Analysis of: • market size; • volume of dumped imports; • market share; and • import trends.
Confidential Appendix 2	Dumping margin calculations for: • Nervacero; • Power Steel; • Millcon Steel; and • Uncooperative and other exporters.
Confidential Appendix 3	• Comparison of unit CTMS to unit revenue • Profit and profitability analysis
Confidential Appendix 4	• Price undercutting analysis • Comparison of prices of rebar straights and rebar coils
Confidential Appendix 5	Market based pricing policy analysis
Confidential Appendix 6	Scrap purchases analysis
Non-Confidential Attachment 1	Summary of submissions

REP 418 - Non-Confidential Attachment 1

Submissions received prior to publication of SEF 418 and before 31 October 2017		
EPR 418 Document No	Received from	Brief description of content
6	Government of Spain	Submission to CON 418
7	European Commission	Submission to CON 418
8	Sidenor Steel Industry S.A	Advice that unable to participate in investigation
10	PT Putra Baja Deli	Response to exporter questionnaire
11	Power Steel Co Ltd	Response to exporter questionnaire
12	Millcon Steel PLC	Response to exporter questionnaire
13	Nervacero S.A	Response to exporter questionnaire
14	PT Ispat Panca Putera	Response to exporter questionnaire
15	Liberty OneSteel	Exporter briefing - Indonesia
17	Liberty OneSteel	Exporter briefing – Power Steel Co Ltd and Thailand
18	Government of Indonesia	Response to CON 418
19	Liberty OneSteel	Exporter briefing – Nervacero S.A
22	Plascorp Pty Ltd	Lack of supply availability in Australian rebar market
23	Liberty OnesteelOneSteel	Seeking clarification regarding importer Sanwa verification report
30	Millcon Steel PLC	Disputing calculation of dumping margin and seeking further adjustments and amendments.
31	Sanwa Pty Ltd and Nervacero S.A	Various issues including Liberty OneSteel's current inability to meet demand in Australian market.

Submissions received prior to publication of SEF 418 but on or after 31 October 2017		
EPR 418 Document No	Document type	Description
34	Nervacero S.A	Submission to initiation of investigation and CON 418
35	Neumann Steel Pty Ltd	Submission to initiation of investigation and CON 418
36	Power Steel Co Ltd	Submission regarding specification adjustment
37	Liberty OneSteel	Seeking clarification regarding PT Ispat Panca Putera verification report
38	Liberty OneSteel	Response to file note of meeting with Sanwa Pty ltd and Nervacero S.A
40	Sidenor S.A	Submission to initiation of investigation and CON 418
Submissions received after publication of SEF 418		
EPR 418 Document No	Document type	Description
43	SRCM Pty Ltd	Submission on supply issues
44	Lyndons Pty Ltd	Submission on supply issues
45	Sanwa Pty Ltd	Submission on date of sale for Nervacero S.A's export sales
46	Government of Spain	Response to SEF 418
47	Liberty OneSteel	Response to SEF 418
48	Power Steel Co Ltd	Response to SEF 418 on specification adjustment
49	European Commission	Response to SEF 418
50	Nervacero S.A	Response to SEF 418 – injury and causation comment
51	Nervacero S.A	Response to SEF 418 – dumping margin calculation
52	Sidenor S.A	Response to SEF 418
53	Neumann Steel Pty Ltd	Response to SEF 418
55	Liberty OneSteel	Response to submission from Lyndons Pty Ltd

56	Liberty OneSteel	Submission on product scope in response to submission from Nervacero S.A
57	Liberty OneSteel	Submission on date of sale in response to submission from Nervacero S.A
58	Liberty OneSteel	Submission on specification adjustments
59	Liberty OneSteel	Submission on causative analysis and attribution
60	Sidenor S.A	Response to submission from Liberty OneSteel
61	Nervacero S.A	Response to submission from Liberty OneSteel
62	Liberty OneSteel	Response to submission from Sidenor S.A
63	Liberty OneSteel	Response to submission from Nervacero S.A.