



CUSTOMS ACT 1901 - PART XVB

ANTI-DUMPING COMMISSION
PRELIMINARY REINVESTIGATION REPORT
FOR THE ANTI-DUMPING REVIEW PANEL

REINVESTIGATION OF CERTAIN FINDINGS
IN REPORT 601

INQUIRY CONCERNING THE CONTINUATION OF
ANTI-DUMPING MEASURES APPLYING TO

STEEL REINFORCING BAR

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

3 October 2023

Preliminary Reinvestigation Report of certain findings in REP 601

Steel Reinforcing Bar – Greece, Indonesia, Spain, Taiwan and Thailand

CONTENTS

CONTENTS..... 2

ABBREVIATIONS..... 3

1 SUMMARY 4

 1.1 INTRODUCTION AND PRELIMINARY FINDINGS 4

 1.2 BACKGROUND TO REINVESTIGATION 4

 1.3 CONDUCT OF REINVESTIGATION 5

2 FINDING 1 – THE EXPIRATION OF THE ANTI-DUMPING MEASURES IN RESPECT OF EXPORTS FROM NERVACERO WOULD LEAD, OR WOULD BE LIKELY TO LEAD, TO A CONTINUATION OF, OR A RECURRENCE OF, THE DUMPING..... 7

 2.1 PRELIMINARY FINDINGS 7

 2.2 ADRP REQUEST FOR REINVESTIGATION 7

 2.3 IMPORT VOLUMES AND PATTERNS OF TRADE 7

 2.4 LIKELY FUTURE SUPPLY AND DEMAND CONDITIONS IN THE AUSTRALIAN MARKET 20

3 FINDING 2 – THE EXPIRATION OF THE ANTI-DUMPING MEASURES WOULD LEAD, OR WOULD BE LIKELY TO LEAD, TO A CONTINUATION OF, OR A RECURRENCE OF, THE MATERIAL INJURY 32

 3.1 PRELIMINARY FINDINGS 32

 3.2 ADRP REQUEST FOR REINVESTIGATION 32

 3.3 COMMISSIONER’S ASSESSMENT 32

4 APPENDICES AND ATTACHMENTS 34

PUBLIC RECORD

ABBREVIATIONS

\$	Australian dollars
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACRS	Australian Certification Authority for Reinforcing and Structural Steels
The Act	<i>Customs Act 1901</i>
ADA	Anti-Dumping Agreement
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
Commission	Anti-Dumping Commission
the Commissioner	The Anti-Dumping Commissioner
CPI	Consumer Price Index
EPR	Electronic Public Record
FBX	Freightos Baltic Index
GSCPI	Global Supply Chain Pressure Index
InfraBuild	InfraBuild (Newcastle) Pty Ltd
the inquiry period	1 January 2021 to 31 December 2021
letter of request	Letter from the review panel to the Commissioner – Request for reinvestigation
Minister	The Minister for Industry and Science
Nervacero	Nervacero S.A.
the notice	ADN 2018/010, the dumping duty notice
OECD	Organisation for Economic Co-operation and Development
RBA	Reserve Bank of Australia
rebar, or the goods	Steel reinforcing bar
REP 601	<i>Anti-Dumping Commission Report No 601</i>
the reviewable decision	The Minister’s decision as published in ADN 2023/004

1 SUMMARY

1.1 Introduction and preliminary findings

The Commissioner of the Anti-Dumping Commission (the Commissioner), upon reinvestigation, is of the preliminary view that the findings in *Anti-Dumping Commission Report No 601* (REP 601), that the expiration of the anti-dumping measures (the measures) would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping from Nervacero S.A. (Nervacero) should be affirmed.

The Commissioner preliminarily finds that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, material injury.

1.2 Background to reinvestigation

1.2.1 Reviewable decision

On 28 March 2022, the Commissioner initiated an inquiry into whether to continue the measures applying to steel reinforcing bar (the goods) exported to Australia from Greece, Indonesia, Spain, Taiwan and Thailand. The measures are in the form of a dumping duty notice (the notice).¹

The Commissioner initiated the inquiry following an application lodged by InfraBuild (Newcastle) Pty Ltd (InfraBuild), seeking a continuation of the measures.²

In REP 601, the Commissioner recommended that the Minister for Industry and Science (Minister) determine that, after 7 March 2023:

- the notice continues in force
- the notice ceases to apply to exporters of the goods from Thailand.³

On 20 February 2023, the Minister accepted the Commissioner's recommendations. On 21 February 2023, the commission published a public notice of this decision on its website.⁴

1.2.2 Review of the Minister's decision

The Anti-Dumping Review Panel (ADRP) received applications for a review of the Minister's decision (the reviewable decision) from InfraBuild and Nervacero, which it published on its website on 3 May 2023.⁵

¹ ADN 2018/010.

² Electronic Public Record (EPR) 601, nos 1 and 2.

³ EPR 601, no 32.

⁴ EPR 601, no 33.

⁵ Applications - InfraBuild and Nervacero, 3 May 2023, on the ADRP's website: [ADRP 2023/166](#).

PUBLIC RECORD

On 3 May 2023, the ADRP published a notice of its intention to conduct a review of the reviewable decision.⁶

On 3 July 2023, the ADRP requested, under section 269ZZL of the *Customs Act 1901* (the Act),⁷ that the Commissioner undertake a reinvestigation of the findings in REP 601, specifically relating to Nervacero's grounds of review (letter of request):⁸

- **Finding 1:** that the expiration of the anti-dumping measures in respect of exports from Nervacero would lead, or would be likely to lead, to a continuation of, or recurrence of, the dumping having regard to its assessment of 2 factors:
 - Import volumes and patterns of trade.
 - Likely future supply and demand conditions in the Australian market.
- **Finding 2:** that the expiration of the anti-dumping measures in respect of exports from Nervacero would lead, or would be likely to lead, to a continuation of, or recurrence of, the material injury only to the extent that the commission's assessment of the likely future supply and demand conditions in the Australian market affects this assessment.

The ADRP requested that the Commissioner provide a reinvestigation report by 20 November 2023.

1.3 Conduct of reinvestigation

1.3.1 Approach to the reinvestigation

The Commissioner has conducted this reinvestigation in accordance with both section 269ZZL(2) of the Act and the ADRP's letter of request. The commission has assisted the Commissioner in undertaking the reinvestigation, pursuant to the commission's functions as outlined in section 269SMD.

In conducting the reinvestigation, the Commissioner has considered:

- the grounds accepted for review (as published by the ADRP under section 269ZZI)
- the ADRP's letter of request
- relevant information contained in Nervacero's application to the ADRP
- relevant information contained in submissions made to the ADRP in relation to Nervacero's application
- additional information submitted to the commission by interested parties⁹
- other information where specified in this preliminary report.

⁶ Letter from the Review Panel to the Commissioner – Request for Reinvestigation (letter of request), 3 July 2023, on the ADRP's website: [ADRP 2023/166](#). The ADRP's letter of request relates to Nervacero's application only and did not ask for a reinvestigation of any grounds of review relating to InfraBuild's application.

⁷ References to any section or subsection in this report relate to provisions of the *Customs Act 1901*, unless specifically stated otherwise.

⁸ Letter of request, 3 July 2023, on the ADRP's website: [ADRP 2023/166](#).

⁹ EPR 601, nos 35 and 36.

PUBLIC RECORD

1.3.2 Preliminary reinvestigation report

This report sets out the preliminary findings of the Commissioner in response to the letter of request. This report provides an opportunity for interested parties to comment on the preliminary findings and for the Commissioner to consider those submissions prior to providing the ADRP with a reinvestigation report under section 269ZZL(2) of the Act.

1.3.3 Next steps

The commission invites interested parties to make submissions in response to the Commissioner's preliminary findings as set out in this report. Submissions received will inform the preparation of the final reinvestigation report that the Commissioner will provide to the ADRP.

Submissions are due no later than **17 October 2023**. The commission's preference is to receive submissions by email to investigations3@adcommission.gov.au. Interested parties may also address submissions to:

The Director, Investigations Unit 3
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2600

Interested parties claiming that information contained in their submissions is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests
- satisfy the Commissioner that there is no way such a summary could allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked 'OFFICIAL: SENSITIVE'. Interested parties must lodge a non-confidential version of their submission, clearly marked 'PUBLIC RECORD'.

2 FINDING 1 – The expiration of the anti-dumping measures in respect of exports from Nervacero would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping

2.1 Preliminary findings

The Commissioner has preliminarily found, upon reinvestigation, that the expiration of the anti-dumping measures in respect of exports from Nervacero would be likely to lead to a continuation of, or a recurrence of, the dumping.

This preliminary finding reaffirms the Commissioner’s finding in REP 601.

2.2 ADRP request for reinvestigation

As noted above, the letter of request outlined the ADRP’s request for a reinvestigation into certain findings in REP 601.

The **first finding** in REP 601 that the ADRP requested be reinvestigated is:

[The finding] that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping.¹⁰

In its letter of request, the ADRP stated that ‘the question for consideration under this ground of review is whether the Commissioner was satisfied, based on positive evidence, that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping.’ Specifically, the ADRP based this question on 2 factors:

1. Import volumes and patterns of trade.
2. Likely future supply and demand conditions in the Australian market.

2.3 Import volumes and patterns of trade

In REP 601, the commission assessed import volumes from all sources, including the subject countries, from 1 January 2013 and assessed the pattern of trade before and after the measures to assess the effect the measures had on import volumes. REP 601 found that:

- if the measures were to expire, the subject country exporters would gain a price advantage from dumping currently prevented by the measures
- given the demonstrated ease at which supply sources have changed in the past, it is likely that import volumes for the subject countries would increase if the measures expired
- in the inquiry period (1 January 2021 to 31 December 2021) specifically, exports continued for Spain (Nervacero)

¹⁰ Letter of request, 3 July 2023, on the ADRP’s website: [ADRP 2023/166](#).

PUBLIC RECORD

- Nervacero would likely continue exporting if the measures were to expire.

In its letter of request, the ADRP identified 2 ‘issues of concern’:

1. Apparent factual error relating to higher tariffs, arising from the Commissioner’s submission to the ADRP.¹¹
2. Competitive advantage of source of exports, arising from the commission’s assessment of the submissions Nervacero had made to the commission in REP 601 and subsequently to the ADRP.

These 2 issues of concern are examined separately below.

2.3.1 Apparent factual error relating to higher tariff rates

Summary

The commission finds that there was a factual error in the Commissioner’s submission to the ADRP. The factual error in the submission relates to the applicable import tariffs for Spain.

In the Commissioner’s submission, the Commissioner stated that the applicable import tariffs for Spain, Poland and Türkiye are the same or similar, when in fact they are different. While unfortunate, the factual error in the submission did not affect or alter the Commissioner’s original findings in REP 601, which were not based on such error. Additionally, the findings in REP 601 were based on the totality of facts and not just applicable import tariffs alone. The commission considers that the ADRP should not put a lot of weight on the factual error in the submission, noting that the reinvestigation has been carried out having corrected the error.

Background

On 26 June 2023, the ADRP conducted a conference with Nervacero. During the conference, Nervacero contended that there was a factual error contained in the Commissioner’s submission to the ADRP dated 2 June 2023, which stated the following:

The commission understands that Nervacero’s reference to “higher import tariffs” as a reason for its diminished exports to Australia is a reference to its import tariffs being higher than that of other exporting countries. The commission notes that the same (or similar) general import tariffs apply to imports from Spain, Poland and Turkey [*sic*], and that imports from Poland and Turkey [*sic*] were prevalent during the inquiry period. Further, prior to the imposition of measures, Nervacero had exported larger volumes at injurious prices despite being subject to a general import tariff. As such, the commission contends that import tariffs are not a genuine reason for Nervacero’s “absence” of exports to Australia.¹²

¹¹ Submission – Anti-Dumping Commission, 2 June 2023, on the ADRP’s website: [ADRP 2023/166](#).

¹² Submission – Anti-Dumping Commission, 2 June 2023, on the ADRP’s website: [ADRP 2023/166](#), para 53.

PUBLIC RECORD

Specifically, Nervacero’s contention was that the commission had erred in stating that ‘the same (or similar) general import tariffs apply to imports from Spain, Poland and Turkey [*sic*].’¹³

Table 1 outlines the applicable tariff rates for Spain, Poland, and Türkiye for each tariff subheading relevant to the goods.¹⁴

Tariff Subheading	Applicable rate of duty	Spain	Poland (DCS)	Türkiye (DCS)
7213.10.00	5% / DCS: Free	5%	Free	Free
7214.20.00	5% / DCS: Free	5%	Free	Free
7227.90.10	5% / DCS: 4% / DCT: 5%	5%	4%	4%
7227.90.90	5% / DCS: Free	5%	Free	Free
7228.30.10	5% / DCS: 4% / DCT: 5%	5%	4%	4%
7228.30.90	5% / DCS: Free	5%	Free	Free
7228.60.10	5% / DCS: 4% / DCT: 5%	5%	4%	4%

Table 1: Relevant tariff codes and applicable rates of duty

Table 1 shows that the tariff rates applicable to Poland and Türkiye are lower than those for Spain for all relevant tariff subheadings.

Accordingly, the commission accepts that it erred in making this statement in its submission to the ADRP. Nervacero was correct to state that general import tariffs for the goods from Spain are higher than they are for Poland and Türkiye.

In its letter to the Commissioner, the ADRP requested that:

In reinvestigating this factor, the ADC should reconsider its conclusion that “import tariffs are not a genuine reason for Nervacero’s “absence” of exports to Australia, noting that this is one of multiple factors identified by Nervacero indicating that, on balance, it is unlikely for exports from Nervacero to continue or recur in the near future.”¹⁵

The commission has considered the impact of import tariffs on whether exports from Nervacero are likely to continue or recur in the next section.

¹³ Conference Summary - Nervacero S.A., 26 June 2023, on the ADRP’s website: [ADRP 2023/166](#).

¹⁴ Australian Border Force (ABF), [Current Tariff Classification – Schedule 3](#), ABF, Australian Government, 2023, accessed 24 August 2023; ABF, [Current Tariff Classification – Schedule 1](#), ABF, Australian Government, 2023, accessed 24 August 2023.

¹⁵ Letter of request, 3 July 2023, on the ADRP’s website: [ADRP 2023/166](#), para 12(ii).

2.3.2 Competitive advantage of source of exports

The Commissioner considers that, upon reinvestigation, there is no change to its original finding in REP 601.

The evidence before the commission demonstrates that expiry of the measures would likely lead to an increase in dumped exports of the goods to Australia from Nervacero.

The commission has preliminarily found:

- Nervacero is a member of the CELSA Group, which has rebar operations in multiple countries (and additional operations in Spain)
- CELSA Group's rebar operations provide some flexibility in respond to anti-dumping measures
- the CELSA Group (including Nervacero), have shifted the source of exports to Australia from Spain to Poland in response to the measures
- domestic rebar prices in Spain have increased faster than export prices
- general tariff rates are not a barrier to Nervacero exporting to Australia
- the Spanish (and European) market for rebar has experienced strong growth
- the projected downturn in the economic conditions in Spain (and Europe) provide an incentive for Nervacero to increase its exports to Australia
- Nervacero's exports during the inquiry period are relevant for assessing dumping
- Nervacero has a demonstrated pattern of dumping behaviour
- removal of the measures would provide Nervacero with an immediate price advantage.

The commission considers that the above factors show that if the measures expire Nervacero will be provided with a competitive advantage over exports from other sources. Nervacero is likely to use this competitive advantage by exporting at dumped prices, as it has done so in the past. Coupled with a downturn in Spanish and European markets, there is a clear incentive for Nervacero to continue to export to Australia if the measures are removed. Combined, these factors support a finding that dumped exports from Nervacero are likely to continue or recur if the measures are allowed to expire.

Legislative background and legal standard of proof

In the letter of request, the ADRP requested that the commission reinvestigate its assessment of the 'competitive advantage of sources of exports not subject to measures'. The commission considered in REP 601 that the competitive advantage of exports not subject to measures was a factor that supported a finding that Nervacero is likely to increase exports to Australia if the measure were allowed to expire.

The ADRP further stated that the commission 'may have misapplied the evidentiary burden' in finding that 'the removal of the measures would likely lead to increase [*sic*] in dumped imports from Nervacero.' The letter of request also noted that the evidentiary burden in question is that 'the [commission] should provide a reasoned and adequate

PUBLIC RECORD

explanation, based on facts, to support any conclusion that imports from Nervacero would likely increase in the event anti-dumping duties on these imports were to be removed.¹⁶

The commission agrees with the ADRP that the likelihood assessment under section 269ZHF(2) requires a reasoned and adequate explanation with a positive factual basis. In REP601, the commission applied the legal standard and evidentiary burden in REP 601 consistent with this approach.

Section 269ZHF(2) requires the Commissioner to ascertain whether there is a relationship between the expiry of measures, on the one hand, and continuation or recurrence of dumping and injury, on the other, such that the former 'would be likely to lead to' the latter. Section 269ZHF(2) is, in part, intended to implement Article 11.3 of the Anti-Dumping Agreement (ADA). Accordingly, section 269ZHF(2) does not set out any particular methodology for undertaking the assessment as to whether measures should be continued. However, consistent with WTO jurisprudence,¹⁷ the Commissioner must arrive at a reasoned conclusion based on positive evidence.

Applying the evidentiary standard in section 269ZHF(2), it is not sufficient for the Commissioner to be satisfied that measures should be continued, **solely** on the assumption that removal of the measures would be likely to result in a recurrence of dumping and injury (on the basis that the implementation of those measures was effective). However, in applying the correct legal standard in a continuation inquiry, the commission reiterates, as set out in its submission to the ADRP, that an assessment of 'likely' under section 269ZHF(2) requires the Commissioner to consider whether expiry of the measures would **more probably than not** lead to the continuation or recurrence of dumping and material injury.

Additionally, as outlined in the commission's submission, the commission's view is that it is consistent with the task under section 269ZHF(2) to consider that if the measures are having a remedial effect, one potential outcome of the removal of the measures is a return of the situation that prevailed prior to their application.

The Commissioner must nonetheless closely analyse the record evidence to determine whether he can be reasonably satisfied this is the likely outcome, rather than merely a possible one. In other words, the Commissioner's approach must have a factual basis and properly account for evidence and arguments to the contrary.

Accordingly, the commission confirms that, in REP 601, it applied this legal standard and arrived at reasoned conclusions based on positive evidence. For example, in chapter 8 of REP 601, the commission considered a range of factors and evidence when assessing whether the expiration of the measures as they relate to Nervacero would be likely to lead to a continuation of, or a recurrence of, the dumping and the material injury the measures

¹⁶ Letter of request, 3 July 2023, on the ADRP's website: [ADRP 2023/166](#), para 12 (i).

¹⁷ See, for example, Appellate Body Report, US – Oil Country Tubular Goods Sunset Reviews, para. 281. See, Appellate Body Report, United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina ("US – Oil Country Tubular Goods Sunset Reviews"), WT/DS268/AB/R, adopted 17 December 2004, para. 234. Also see Appellate Body Report, United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan ("US – Corrosion-Resistant Steel Sunset Review"), WT/DS244/AB/R, adopted 9 January 2004, paras. 111-115, including the citation with approval of the panel report, para. 7.271.

PUBLIC RECORD

are intended to prevent.¹⁸ After completing its assessment, the commission found that 'while no single factor is determinative, the commission considers that when assessed in aggregate', the expiry of the measures would likely lead to the continuation or recurrence of dumping and material injury.¹⁹

The commission has re-examined the evidence (including evidence to the contrary) before it and maintains the conclusion that recurrence or continuation of dumping will likely result from removal of the measures with respect to Nervacero.

The commission has examined:

- patterns of trade
- likelihood of dumping
- Nervacero's claims regarding its exports to Australia.

Patterns of trade

The commission's analysis of patterns of trade indicates that Nervacero would seek to increase exports to Australia if measures were removed.

The commission notes that Nervacero is a member of the CELSA Group. The CELSA Group owns or controls steel mills in several countries. Three of these mills – CELSA Barcelona, CELSA Poland and Nervacero, maintain ACRS accreditation for the supply of both rebar coils and straights to the Australian market.²⁰

The commission analysed the pattern of exports to Australia for these 3 entities from 2012 until 2022 using evidence from the ABF database. While exports of the goods to Australia from Poland are not subject to this inquiry, the commission finds it a relevant consideration when assessing the previous, and likely future, export behaviour of the CELSA Group, including Nervacero.

The commission's analysis is demonstrated in Figure 1.

¹⁸ *Anti-Dumping Commission Report No 601* (REP 601), chapter 8.

¹⁹ REP 601, section 8.6.5.

²⁰ Australasian Certification Authority for Reinforcing and Structural Steels (ACRS), [ACRS](#) [website], n.d., accessed 25 May 2022.

PUBLIC RECORD

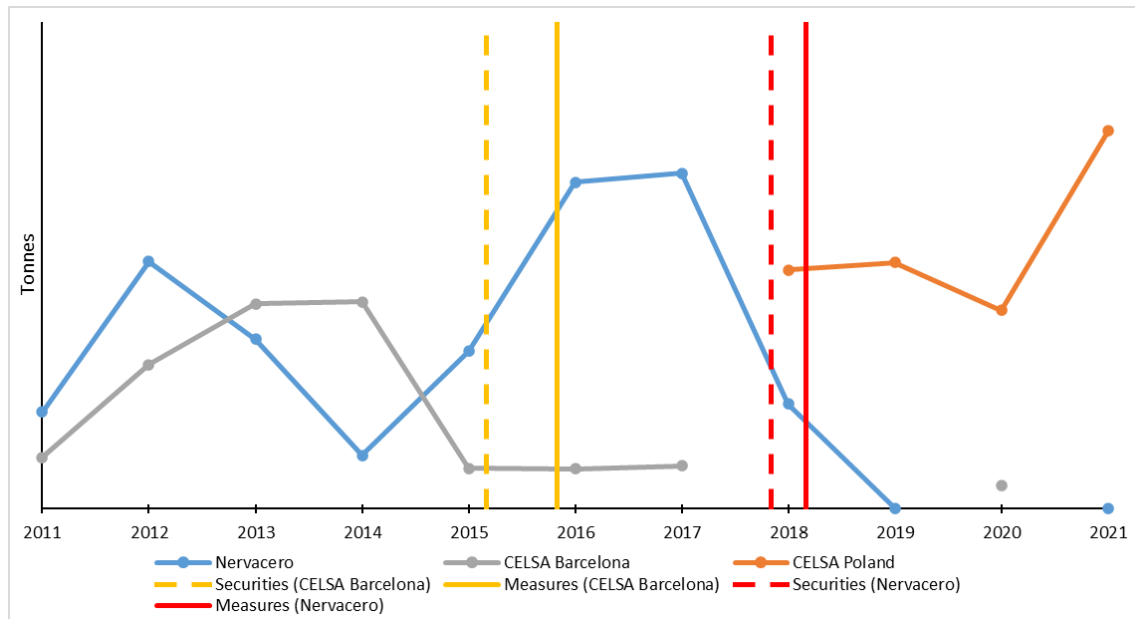


Figure 1: Exports from CELSA Group entities to Australia²¹

Figure 1, and the underlying evidence supporting it, demonstrates:

- prior to measures on CELSA Barcelona, both CELSA Barcelona and Nervacero exported similar volumes of the goods to Australia
- following the initiation of *Investigation 264* (October 2014), the total volume of exports from Spain reduced
- exports from Nervacero increased coincident with measures on CELSA Barcelona (shown in yellow)
- exports from Poland increased coincident with the initiation of *Investigation 418* (June 2017), which included exports from Nervacero
- regardless of the source of supply, the CELSA group maintains the same distribution links to the Australian market²²
- during the inquiry period, CELSA Poland was responsible for almost the entire volume of exports from these 3 CELSA Group entities
- the combined volume of goods exported by these CELSA Group entities during the inquiry period has only been surpassed by the volume of exports in 2012.

The above evidence and analysis support the commission's view that the CELSA Group has primarily altered supply sources to the Australian market in response to measures. If the measures were removed, the commission considers that this behaviour supports a finding that the CELSA Group would move to increase exports of the goods from Nervacero to Australia.

This behaviour of the CELSA Group was also observed in *ADRP Report No. 130*. In that report, the panel member stated that 'where an exporter is part of a group of companies,

²¹ Confidential attachment 2 – Pattern of trade analysis, worksheet *2013-2021 pattern of trade*.

²² Confidential attachment 2 – Pattern of trade analysis, worksheet *CELSA distribution links*.

PUBLIC RECORD

the behaviour of the group as a whole and of other members of that group can be illuminating.²³

The panel member also stated that where the behaviour is the result of the measures, 'this suggests that dumping will resume if the Measures are not continued.'²⁴

The commission considers that the CELSA Group entities, including Nervacero, have exhibited a continued behaviour of adjusting the source of supply directly in response to the application of measures.

Nervacero claimed that the exports from other entities in the CELSA Group is not a sufficient basis to discount Nervacero's own reasons for not exporting to Australia.²⁵

While the investigation does not concern exports from Poland or CELSA Barcelona, the commission considers they are still relevant for assessing whether measures should continue. As outlined above (Figure 1), there is a clear pattern of the CELSA Group shifting supply in response to the measures. These 3 entities all maintain ACRS accreditation, making them particularly relevant for assessing the behaviour of exports to Australia.

Likelihood of dumping

After finding that Nervacero's exports of the goods to Australia is likely to continue or recur, the commission assessed whether it is likely that those goods would be dumped.

As outlined in REP 601, the commission found that Nervacero's dumping margin during the inquiry period was 33.5%.²⁶ Nervacero was also found to be dumping in *Investigation 418*, at a rate of 6.3%.²⁷ The commission considers that past dumping behaviour can indicate that dumping is likely to continue if the measures expire.

The commission considers that Nervacero's past behaviour of dumping is evidence that is indicative of what is likely to occur if measures are removed.

Nervacero submitted that its past dumping behaviour is not sufficient to justify the continuation of measures.²⁸ Nervacero highlighted that it was found to have *de minimis* levels of dumping in *Investigation 264*. The commission notes that while the level of dumping was *de minimis*, the dumping margin was positive. Further, this demonstrates that each time the commission has assessed variable factors for Nervacero, the dumping margin has increased. The commission considers that this indicates a pattern of dumping.

Nervacero further submitted that its single export during the inquiry period was a 'one-off shipment' with 'little relevance to what may happen if the measures expire.'²⁹

²³ ADRP Report No. 130, para 121.

²⁴ ADRP Report No. 130, para 120.

²⁵ Submission – Nervacero, 2 June 2023, on the ADRP's website: [ADRP 2023/166](#), pp 8-9.

²⁶ REP 601, section 7.5.

²⁷ ADRP Report No. 80, para 309.

²⁸ Submission – Nervacero, 2 June 2023, on the ADRP's website: [ADRP 2023/166](#), p 5.

²⁹ Submission – Nervacero, 2 June 2023, on the ADRP's website: [ADRP 2023/166](#), p 3.

PUBLIC RECORD

The commission considers that while this may have been a single shipment, it is still relevant for determining whether dumping will continue.

Firstly, the commission found that the shipment was relevant for determining an export price – it was an arms length transaction to an unrelated customer and met the requirements of section 269TAB(1)(a).³⁰

Secondly, the purpose of this shipment appears to be for retaining ACRS accreditation. The commission considers that retaining ACRS accreditation demonstrates an intention to export to Australia.

Third, the importer for this shipment was one of Nervacero's major customers prior to measures. This customer now imports rebar from the CELSA Group entity in Poland, a response to the measures. The commission considers that this is positive evidence that Nervacero maintains distribution links to major customers in Australia. If measures were removed there would be no barrier to Nervacero resuming exports to this customer (and other customers that have maintained distribution links to the CELSA Group).

Furthermore, the commission has not made its findings regarding the likelihood of continued dumping based on Nervacero's pattern of dumping alone.

InfraBuild provided evidence, in the form of third party paid subscription data, to support that the domestic prices for rebar in Spain had recently increased more than the export price.³¹

Nervacero claimed that the information provided by InfraBuild does not support a finding that exports from Nervacero would be dumped.³² Nervacero's submission was concerned with how this information supported a finding that its exports would be dumped. Nervacero submitted that higher domestic prices supported a finding that it would not export to Australia.

The relevance of the information provided by InfraBuild is the difference between domestic prices and export prices. Movements in domestic prices are an indication of movements in normal value. Accordingly, an increase in the difference between domestic prices and export prices suggests an increase in the dumping margin.

This was supported by the commission's finding that Nervacero's dumping margin in the inquiry period was higher than its current interim dumping duty rate.

The Government of Spain's submission in response to initiation of the inquiry also referred to significant steel price inflation in Spain and Europe, which could have increased the normal value for Spain.³³

³⁰ REP 601, p 55.

³¹ **Confidential attachment 3** – InfraBuild third party data, worksheet *CHART 1.4.2*.

³² Submission – Nervacero, 2 June 2023, on the ADRP's website: [ADRP 2023/166](#), pp 5-6.

³³ EPR 601, no 4, p 1.

PUBLIC RECORD

Nervacero questioned the commission's finding that it would reduce export prices to gain a price advantage if measures were removed.³⁴

The removal of measures would provide Nervacero with an immediate price advantage without any adjustment of Nervacero's export price.

As the commission has found previously, the Australian market for rebar is price sensitive.³⁵ The factors supporting the price sensitivity of the Australian market are:

- lack of differentiation between different sources of rebar, other than price and service
- similarity of landed import prices from the majority of import sources
- operation of an import price parity model by InfraBuild.

The price advantage from the removal of the measures would make exports from Nervacero more competitive in the Australian market. The commission considers that this would provide Nervacero an incentive to increase exports to Australia.

Accordingly, the commission has found:

- Nervacero has a continued behaviour of exporting at dumped prices
- the gap between domestic rebar prices in Spain and export prices is widening
- exports from Nervacero will be more competitive in the absence of measures.

The commission considers that the evidence outlined in this section supports a finding that dumped exports from Nervacero will continue if the measures expire.

Nervacero's claims regarding its exports to Australia

In its various submissions to both the commission and the ADRP, Nervacero claimed that its patterns of trade were not due to the measures. It instead attributed several other factors to its decline in exports to Australia and why its potential future exports would not be at dumped prices:³⁶

- higher import tariffs
- the high price and strong demand in Nervacero's main European markets
- higher cost of production and freight as a Spanish exporter
- competitive advantage of sources of exports not subject to measures.

The commission has had regard to Nervacero's submissions to the extent that they relate to the reasons cited by the ADRP in making its reinvestigation request.³⁷ That is, the

³⁴ Submission – Nervacero, 2 June 2023, on the ADRP's website: [ADRP 2023/166](#), pp 6-7.

³⁵ REP 601, section 5.2.6.

³⁶ EPR 601, no 27, pp 3-12; Application – Nervacero, 3 May 2023, on the ADRP's website: [ADRP 2023/166](#), pp 12-18.

³⁷ Nervacero lodged a further submission to the commission on 13 September 2023 (EPR 601, no 36). This submission was received outside of the 21-day period the commission had set for submissions in relation to the reinvestigation (ending 22 August 2023). The Commissioner has not considered this submission in this report. However, the submission will be considered in the Commissioner's reinvestigation report to the ADRP.

PUBLIC RECORD

commission has considered Nervacero's submissions in the context of the ADRP's letter of request, which framed the reasons for the request and the scope of the reinvestigation. Specifically, claims made by Nervacero relating to patterns of trade and tariff rates have been considered as part of this report.

As identified in section 2.3.1, the general tariff rates applicable to exports of the goods from Spain are higher than other large sources of imports (including Poland and Türkiye).

Although rates for Spain are higher than other countries, this did not appear to be a barrier to the CELSA Group exporting rebar from Spain before measures were applied (Figure 1). In fact, the group only switched to exporting from Poland in response to the application of measures.

The commission considers that this does not support Nervacero's assertion that import tariffs are a barrier to exporting the goods to Australia.

The commission's findings in relation to the conditions of the rebar market in Europe have not changed from REP 601:

The commission accepts that Nervacero's sales mix has shifted toward the European markets since the imposition of measures. The commission considers this shift is likely a consequence of both the measures and the favourable trading conditions in the Spanish and European markets during 2021 and the early stages of 2022. The commission considers that the projected slowdown in the European market, and the already evident decline in rebar prices, is likely to be detrimental to Nervacero. Based on Nervacero's willingness to export to Australia at dumped prices in previous periods of economic slowdown in its domestic market, the commission considers it likely that in the absence of measures Nervacero would likely export goods to Australia at dumped prices.³⁸

The Organisation for Economic Cooperation and Development's (OECD) updated Economic Outlook for Spain continues to project a slowdown in economic activity.

GDP growth is projected to slow to 2.1% in 2023 and 1.9% in 2024, after two years of strong post-COVID growth of 5.5%.³⁹

Furthermore, it estimates that business investment will only improve gradually, limited by the rising cost of financing.

This is also echoed in the outlook for the Euro area.

GDP growth is projected to slow to 0.9% in 2023 and then gradually strengthen to 1.5% in 2024. Private consumption will be supported by strong labour markets, but higher costs of financing and uncertainty will weigh on private investment.⁴⁰

³⁸ REP 601, pp 82-86.

³⁹ Organisation for Economic Cooperation and Development (OECD), [OECD Economic Outlook, Volume 2023 Issue 1](#), OECD, 2023, accessed 5 September 2023.

⁴⁰ OECD, [OECD Economic Outlook, Volume 2023 Issue 1](#), OECD, 2023, accessed 5 September 2023.

PUBLIC RECORD

The Atradius Economic Outlook July 2023 report also supports a slowdown in economic activity, with GDP growth forecasts revised downwards (excluding Ireland).

Table 2.2 Real GDP growth (%) – eurozone

	2021	2022	2023f	2024f
Austria	4.7	4.9	0.5	0.8
Belgium	6.3	3.2	1.3	1.0
France	6.4	2.5	0.5	0.8
Germany	2.6	1.9	-0.4	1.2
Greece	8.1	6.0	1.3	1.0
Ireland	13.4	12.1	0.5	4.4
Italy	7.0	3.8	1.2	0.9
Netherlands	4.9	4.5	0.7	1.4
Portugal	5.5	6.7	2.7	1.5
Spain	5.5	5.5	2.3	1.3
Eurozone	5.3	3.5	0.6	1.2

Sources: Oxford Economics, Atradius

Figure 2: Real GDP growth (%) - eurozone⁴¹

Contemporary pricing information demonstrates a further decline in European prices for rebar (Figure 3).

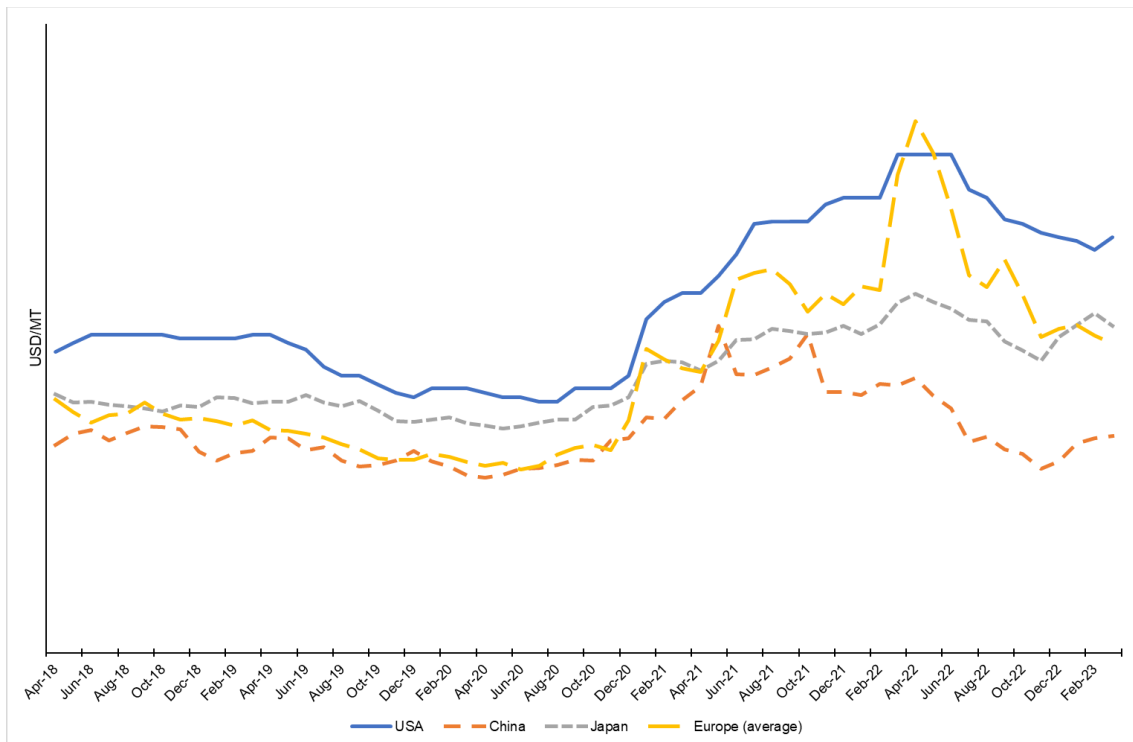


Figure 3: Rebar price movements⁴²

⁴¹ Atradius, [Economic Outlook – July 2023](#), Atradius, 2023, accessed 5 September 2023.

⁴² Confidential attachment 4 – Rebar price trends, worksheet *Rebar pricing*.

PUBLIC RECORD

The market intelligence obtained by the commission also outlines that rebar prices in Europe have reduced.⁴³ This market intelligence also supports that construction activity is flat, driven by the high cost of financing.

The commission considers that the above is all evidence that supports a finding that Nervacero will see a downturn in its domestic markets.

Nervacero submitted that '[section 269ZHF(2)] is not concerned with what may happen in the future if there is an economic downturn in an exporter's home market following the expiry of those measures.'⁴⁴

The commission considers that consideration of the economic condition of the Spanish market for rebar is a key factor in determining whether dumped exporters from Nervacero are likely to continue or recur. As outlined above, the commission considers that it is likely that there will be a downturn in the Spanish market for rebar. In fact, Figure 3 confirms that European prices for rebar have continued to decline. The commission found in REP 601 that changing market conditions were likely to be detrimental to Nervacero. The commission's reinvestigation confirms that the market conditions for rebar in Spain and Europe are declining, evidenced by the continued decline in rebar prices.

Based on Nervacero's willingness to export to Australia at dumped prices in previous periods of economic slowdown in its domestic market, the commission considers it likely that in the absence of measures Nervacero would likely export goods to Australia at dumped prices.

The commission preliminarily finds that, upon reinvestigation, there is no change to its original finding.

The evidence before the commission demonstrates that:

- the downturn in Nervacero's domestic markets provides and incentive for it to seek out alternative export markets
- Nervacero has maintained distribution links to major customers, both directly and through the CELSA Group
- CELSA Group entities have a demonstrated behaviour of exporting to Australia in the absence of measures
- Nervacero has historically exported at dumped prices
- domestic rebar prices in Spain have increased at a greater rate than export prices
- the expiry of the measures would provide Nervacero with a price advantage in a price sensitive Australian market.

These factors combined support a finding that the removal of the measures would likely lead to an increase in dumped exports of the goods to Australia from Nervacero.

⁴³ Confidential attachment 5.

⁴⁴ Submission – Nervacero, 2 June 2023, on the ADRP's website: [ADRP 2023/166](#), p 7.

2.4 Likely future supply and demand conditions in the Australian market

Upon reinvestigating sections 8.4.3 and 8.5.3 of REP 601, the commission has maintained its findings in REP 601 that, the Australian market for rebar during the inquiry period was characterised by strong growth in demand against a backdrop of significant disruption to the global supply chain.

The commission considers that over the inquiry period, the Australian market for rebar has grown and will likely continue to grow, due largely to the impacts of fiscal stimulus. Tightening monetary policy settings and declining fiscal stimulus is expected to lead to a decline in growth once the current pipeline of projects underway are completed.

The commission considers that, since the end of the inquiry period, freight costs have returned to significantly lower levels than those seen in the later parts of the inquiry period. Export supply is now as cost effective and timely as was the case prior to the COVID-19 pandemic. With the moderation of these supply constraints after the inquiry period, imports have continued, and are likely to continue to account for a significant portion of the Australian market.

The commission considers that even if demand in the Australian market moderates it will remain an attractive market for exports.

ADRP Request for Reinvestigation

In section 8.4.3 of REP 601, as part of the commission's assessment of whether dumping and material injury are likely to continue or recur, the commission referred to its findings in chapter 5 of that report on the condition of the Australian market for rebar. In both chapter 5 and section 8.4.3, the commission contended that the Australian market for rebar during the inquiry period was characterised by strong growth in demand against a backdrop of significant disruption to the global supply chain.

In its application for review, Nervacero stated that these observations by the commission were 'speculative' and that there was 'no attempt to reconcile the predicted moderation in demand and the prediction that the market would "remain attractive" at the same time.'⁴⁵

In its letter of request to the Commissioner, the ADRP stated that 'Nervacero's contention has validity' and found that both of the commission's conclusions (that the Australian market was experiencing strong growth and that this occurred in the context of disruption to the global supply chain) 'are somewhat speculative and without sufficient factual or documentary basis'.⁴⁶ The ADRP went on to say that:

While the ADC's consideration that domestic demand for rebar is likely to moderate, makes reference to the dissipation of the fiscal stimulus applied during the COVID-19 pandemic and monetary setting being tightened, there are no footnotes or references to any documentary evidence such as: published (or private) economic or industry reports, forecast or analyses (whether general to the

⁴⁵ Application – Nervacero, 3 May 2023, on the ADRP's website: [ADRP 2023/166](#), p 22.

⁴⁶ Letter of request, 3 July 2023, on the ADRP's website: [ADRP 2023/166](#), p 8.

PUBLIC RECORD

building or steel industries or more specific to the rebar industry, or even to the Australian economy), that would allow the ADC to draw reasoned and adequate conclusions. It cannot be said to be based on “positive evidence”.⁴⁷

The ADRP then examined what constitutes ‘positive evidence’, referring to a recent World Trade Organization Appellate Body report, *US Hot-Rolled Steel from Japan*, stating:

The term “positive evidence” relates... to the quality of the evidence that authorities may rely upon in making a determination. The word “positive” means... that the evidence must be of an affirmative, objective and verifiable character, and that it must be credible.⁴⁸

The ADRP then requested that the commission, ‘in its reinvestigation of this factor relating to the likely future supply and demand conditions in the Australian market, reconsider its finding and make any conclusions based only on positive evidence and reliable, verifiable facts.’⁴⁹

Approach to reinvestigation

The commission has reinvestigated the evidentiary basis for the claims made in REP 601 in relation to the economic condition of the Australian market for rebar. The commission has included citations and references confirming the basis of the commission’s assessment rests on positive evidence and reliable, verifiable facts.

The commission also reiterates that, as the ADRP noted in its letter of request, ‘determinations to be made under Article 11.3 are prospective in nature’ and ‘involve a forward-looking analysis’ that inevitably entails ‘assumptions about or projections into the future’, and therefore ‘inferences drawn from the evidence will be, to a certain extent, speculative’.⁵⁰

2.4.1 Demand for rebar in Australia continues to grow

The commission maintains its finding that the Australian market for rebar was characterised by strong growth in demand over the inquiry period.

Upon reinvestigation, the commission has also found that demand drivers for rebar in Australia have continued to grow following the inquiry period. However, there are factors that indicate that this growth may slow in the future. Despite any moderation in growth, the Australian market for rebar is attractive to exporters.

The commission has found:

- The Australian rebar market is attractive to exporters.

⁴⁷ Letter of request, 3 July 2023, on the ADRP’s website: [ADRP 2023/166](#), p 8.

⁴⁸ World Trade Organization, United States, *Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/AB/R, 24 July 2001, para 192.

⁴⁹ Letter of request, 3 July 2023, on the ADRP’s website: [ADRP 2023/166](#), p 9.

⁵⁰ Letter of request, 3 July 2023, on the ADRP’s website: [ADRP 2023/166](#), footnote 19; see also WTO Appellate Body Report, *US -OCTG Sunset Reviews*, para 341.

PUBLIC RECORD

- There has been strong growth in the Australian market for rebar over the inquiry period.
- This growth is largely the result of fiscal stimulus, which is expected to continue to provide a boost to the market for rebar into the short to medium-term, despite now tightened monetary policy settings.

The Australian rebar market is attractive to exporters

The commission considers that the Australian market for rebar continues to be attractive to exporters.

The commission's analysis of imports in REP 601 showed that new supply sources quickly emerged following the imposition of measures.⁵¹ This demonstrates that exporters are willing to quickly enter the Australian market if the conditions are right (including reduced competition from exporters subject to measures).

Further, the commission has found that exporters subject to measures maintain distribution links to customers in Australia. The continuation of distribution links is evidence that the Australian rebar market is attractive to exporters.

Strong demand for rebar in Australia is also a factor which makes the Australian rebar market attractive to exporters. This is discussed in the following section.

Strong growth in the Australian market for rebar

As outlined in REP 601, the commission considers that demand for rebar in Australia is closely aligned with the level of construction activity. Demand is therefore susceptible to changes in both government and private investment.⁵²

The commission noted that the COVID-19 pandemic impacted the Australian market during the inquiry period. As the COVID-19 pandemic emerged in 2020, there was considerable concern that it would adversely impact the Australian economy.⁵³

The minutes of the monetary policy meeting of the Reserve Bank of Australia (RBA) Board held on 3 March 2020 noted that 'it had become increasingly clear that the spread of [COVID-19] beyond China would cause a major disruption to economic activity around the world.' And that 'The advent of COVID-19 around the world was having a significant effect on the Australian economy'.⁵⁴

However, despite these initial concerns, the commission estimated that the Australian market for rebar expanded by almost 20% from 2020 to 2021 (the inquiry period).⁵⁵ The

⁵¹ REP 601, p 63.

⁵² REP 601, section 5.2.4.

⁵³ REP 601, section 5.2.5.

⁵⁴ Reserve Bank of Australia (RBA), [Minutes of the Monetary Policy Meeting of the Reserve Bank Board, 2020](#), RBA, Australian Government, 3 March 2020, accessed 6 July 2022.

⁵⁵ **Confidential attachment 1** – Australian market, worksheet 601 – Market size.

PUBLIC RECORD

Australian Bureau of Statistics (ABS) data also showed that the total value of building work done increased over the inquiry period.⁵⁶

The commission considered that significant direct and indirect government stimulus incentives were drivers for the growth during the inquiry period.

Changes in fiscal stimulus and monetary policy

The commission considers that a significant reason for the growth of the market over and beyond the inquiry period has been fiscal stimulus by the Commonwealth and State governments.

In response to the economic slowdown caused by COVID-19, Australian governments acted quickly to boost spending.

On 18 May 2023, Dr Steven Kennedy PSM, Treasury Secretary, noted that:

Global trade and industrial production plummeted in 2020, by between 10 to 15 per cent.

These events prompted the largest fiscal response ever, with monetary policy also providing significant support.

In Australia, the direct fiscal response alone was \$314 billion, more than six times the response during the global financial crisis. And the size of the Reserve Bank's balance sheet grew around 2.5 times larger to around \$640 billion or 27 per cent of GDP.⁵⁷

The RBA also responded by dropping the cash rate to 0.1% in November 2020 (Figure 4).

⁵⁶ **Attachment 6** – ABS building work done, worksheet *Building work done*.

⁵⁷ Dr Steven Kennedy PSM, [Post-budget economic briefing – Address to the Australian Business Economists](#) [media release], The Treasury, Australian Government, 18 May 2023, accessed 4 September 2023.

PUBLIC RECORD



Figure 4: RBA cash rate target⁵⁸

In a report provided by InfraBuild in their submission dated 22 August 2023, Oxford Economics Australia also noted that the effects of fiscal stimulus on engineering construction activity have been (as of August 2023) significant and will likely continue into 2025.

The government funded infrastructure boom continues to support engineering construction activity. Publicly funded transportation construction work done increased 13.1% to be \$28.7bn over the twelve months to March 2023, which is the highest recorded level of activity over a twelve-month period on record. We forecast government funded transportation work will reach a peak of \$32.9bn in FY25.⁵⁹

The commission considers that this evidence supports a finding that fiscal stimulus is a major factor in the growth in demand for rebar in Australia over the inquiry period.

Despite the boost to construction activity caused by fiscal stimulus, the commission has found that monetary policy is now tightening.

The commission considers that tightening monetary policy since the inquiry period may have already had and will continue to have, a dampening effect on construction activity and Australian demand for rebar.

For the entirety of the inquiry period, the cash rate remained at 0.1%. It began to rise on 4 May 2022, and has since grown to 4.1% on 2 August 2023 (Figure 4).

⁵⁸ Reserve Bank of Australia (RBA), [Cash Rate Target](#), RBA, 2 August 2023, accessed 4 September 2023.

⁵⁹ Oxford Economics Australia, *Engineering Construction in Australia*, Oxford Economics Australia, August 2023.

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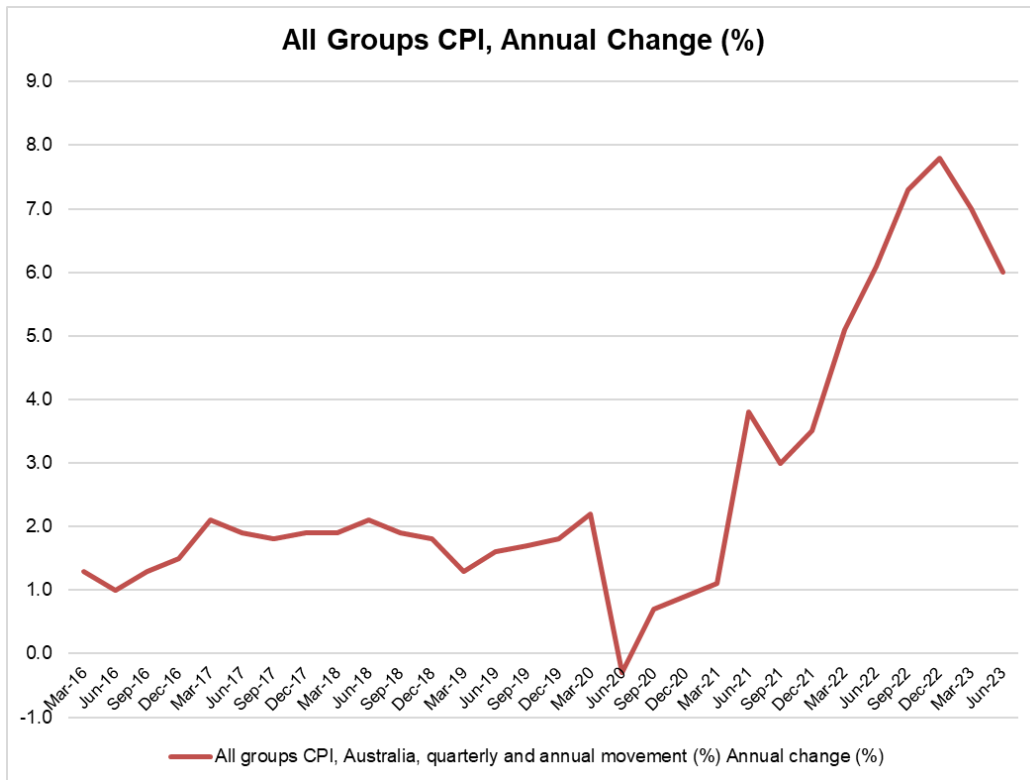


Figure 5: Annual change of Australian Consumer Price Index (CPI)⁶⁰

The RBA raised the cash rate in attempts to address growing inflation over the inquiry period, hitting a peak in December 2022 (Figure 5).

The commission has further examined what effect this is likely to have on demand for rebar in Australia.

Demand remains high but may decrease

The commission has found that demand indicators for rebar in Australia continue to grow.

However, the commission considers that once the effects of fiscal stimulus abate and the full impact of tightening monetary policy is felt, construction activity may slow, reducing demand for rebar.

The commission examined ABS data in REP 601 to assess demand for rebar following COVID-19. The commission found that there was an increase in building and construction activity following the inquiry period. The commission considered that it was unlikely that this growth would continue.⁶¹

The commission has analysed updated ABS data for building work done (Figure 6). The updated data shows that the total value of building work has continued to grow since the inquiry period, hitting \$37 billion in March 2023. The commission considers that this

⁶⁰ Australian Bureau of Statistics (June Quarter 2023) 'Tables 1 and 2. CPI: All Groups, Index Numbers and Percentage Changes' [time series spreadsheet], [Consumer Price Index, Australia](#), accessed 4 September 2023.

⁶¹ REP 601, section 5.2.5.

indicates that there has been strong growth in the market for rebar since the inquiry period.

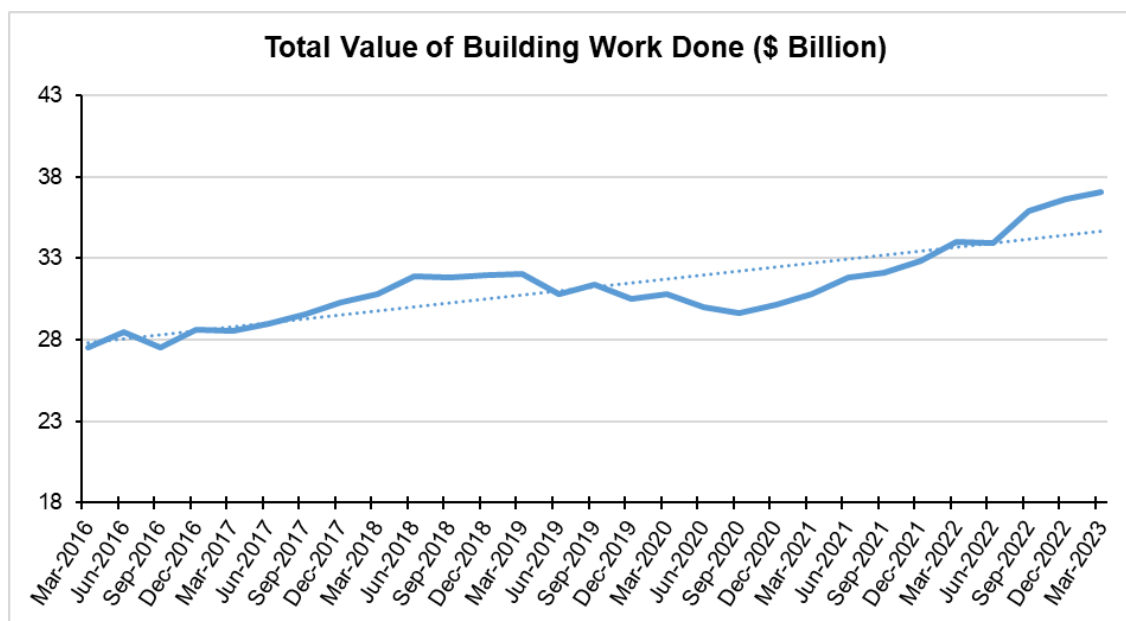


Figure 6: Total value of building work done in Australia, quarterly (\$ Billion)⁶²

As noted earlier from the report by Oxford Economics Australia, fiscal stimulus remains impactful on the current pipeline of construction projects. Tightening monetary policy settings have yet to lead to a significant reduction in the level of construction activity in Australia. However, there is evidence that the growth in construction activity will decrease in the next few years. Domestic demand for rebar is likely to moderate when the effects of fiscal stimulus reduce and the impacts of tightened monetary policy are felt fully.

Once the pipeline of construction projects currently underway are completed, construction activity is likely to contract. The 2023-24 Budget Paper noted, when referring to dwelling investment, that:

A significant pipeline of projects currently underway is supporting dwelling investment, with the sector working through the tail end of recent strong demand, supply chain delays and disruption due to floods in 2022. As work is completed and the impact of earlier interest rate hikes and house price declines flow through the system, activity is expected to contract by 3½ per cent in 2023–24.

The downturn in activity is expected to extend into 2024–25, with a further 1½ per cent decline anticipated, before recovering strongly over 2025 and onwards. The ongoing rebound in net overseas migration, strong rental yields, expected lower interest rates and a reduction in building input costs are expected to drive the recovery, particularly in medium and high-density housing. Government initiatives to boost supply will also assist in supporting investment in new dwellings.⁶³

⁶² Australian Bureau of Statistics (March 2023) 'Table 12. Value of Building Work Done by Sector, Australia' [time series spreadsheet], [Building Activity, Australia](#), accessed 8 September 2023.

⁶³ The Commonwealth of Australia, [Budget 2023-24 - Budget Paper No.1](#), 9 May 2023, p 62.

PUBLIC RECORD

As also mentioned above, non-residential, government funded infrastructure is expected to hit a peak in 2025.⁶⁴ The report by Oxford Economics Australia also forecasts that the current pipeline of construction work may be reduced as government budgets account for industry capacity constraints and input cost inflation.

As such, the commission considers that once the 'pipeline' of current construction project underway are completed and the flow on effects of tightening monetary policy are felt, construction activity is likely to contract. However, this contraction must be seen in context of the uncharacteristic growth in the construction sector due to the fiscal stimulus in response to COVID-19. The commission considers that the Australian market for rebar will remain healthy and attractive to exporters.

2.4.2 Barriers to exporting to Australia have reduced

Upon reinvestigation, the commission considers that there was significant disruption to the global supply chain, in the form of heavily inflated freight costs over the inquiry period, impacting the Australian market for rebar.

Freight costs have now returned to much lower levels than during the inquiry period, making imports much more cost competitive than over the inquiry period. As such, the commission considers that imports will continue to account for a significant portion of the Australian market for rebar.

The commission has found:

- the Australian market for rebar is attractive to exporters
- there was significant disruption to the global supply chain over the inquiry period
- freight costs have fallen dramatically since the inquiry period, returning to pre-pandemic levels
- lower freight costs have improved the price competitiveness of imported rebar, making it likely that imports will continue to account for a significant portion of the Australian market for rebar.

Australian market is attractive to exporters

The commission found in REP 601 that the Australian market was attractive to exporters.

The commission's analysis of import volumes showed that each time measures were imposed, exports from the affected countries reduced. These exports were subsequently replaced by exports from countries not subject to measures.⁶⁵

The commission's analysis in REP 601 demonstrated that measures have influenced import volumes and patterns of trade in the Australian market. The commission considers that the changes in the pattern of trade are a direct result of the price sensitivity in the Australian market. Exporters subject to measures have generally only exported significant volumes when at dumped prices, due to the price advantage from dumping. The fact that

⁶⁴ Oxford Economics Australia, *Engineering Construction in Australia*, Oxford Economics Australia, August 2023.

⁶⁵ REP 601, section 8.4.1.

PUBLIC RECORD

new supply sources have quickly emerged following measures indicates that Australia is an attractive market for exporters of rebar.

Supply disruptions

In REP 601, the commission cited an assessment of the impact of the COVID-19 pandemic on supply chains by the Australian Competition and Consumer Commission (ACCC). The *Container Stevedoring Monitoring Report 2020-21* report states that:

Over the past 12 months, the COVID-19 pandemic has derailed the global container freight supply chain (the supply chain). The pandemic-induced lockdowns, border closures and travel restrictions have shifted consumer demand from hospitality services towards manufactured household goods that are typically transported in containers.

At the same time, the pandemic set off a cascade effect, with intermittent and ongoing shocks across the supply chain draining spare shipping and port capacity. The supply chain has been kept in a continuous state of disarray, unable to cope with increased container demand.

This represents a logistical nightmare for the industry. The once efficient major overseas ports have become a cause of severe congestion and delays. The shipping line schedules that worked like clockwork are out of sync. Shipping lines have deployed all their fleet but are unable to fully utilise their capacity as vessels are either trapped for long periods of time in port waiting queues or choose to skip ports altogether.

There is an abundance of empty containers, but they are stuck in the wrong places.'

'Shipment delays have been mounting as shipping lines are increasingly omitting ports, rolling over cargo and cancelling bookings. Cargo owners around the world are scrambling to book scarce capacity on vessels, bidding up freight rates to unprecedented levels. Freight rates on key global trade routes are around 7 times higher than they were a little over a year ago.

Australian importers and exporters are finding this situation particularly challenging. Many are struggling to get all their cargo on ships and are facing rapidly escalating freight rates. Some are paying significant premiums and surcharges to shipping lines to obtain priority loading, but even this does not guarantee on-time delivery.⁶⁶

The ABS in its *Spotlight on recent trends in freight costs* also stated that 'freight services costs surged during the COVID-19 pandemic as a result of global supply chain disruptions'.⁶⁷

⁶⁶ Australian Competition and Consumer Commission (ACCC), [Container stevedoring monitoring report 2020-21](#), ACCC, Australian Government, 2021, accessed 14 June 2022.

⁶⁷ Australian Bureau of Statistics (May 2023), [Spotlight on recent trends in Freight costs](#), ABS website, accessed 5 September 2023.

PUBLIC RECORD

The Global Supply Chain Pressure Index (GSCPI), an index tracking the state of global supply chains using data from the transportation and manufacturing sectors also shows a surge in supply chain pressure over the inquiry period, reducing dramatically in 2023.

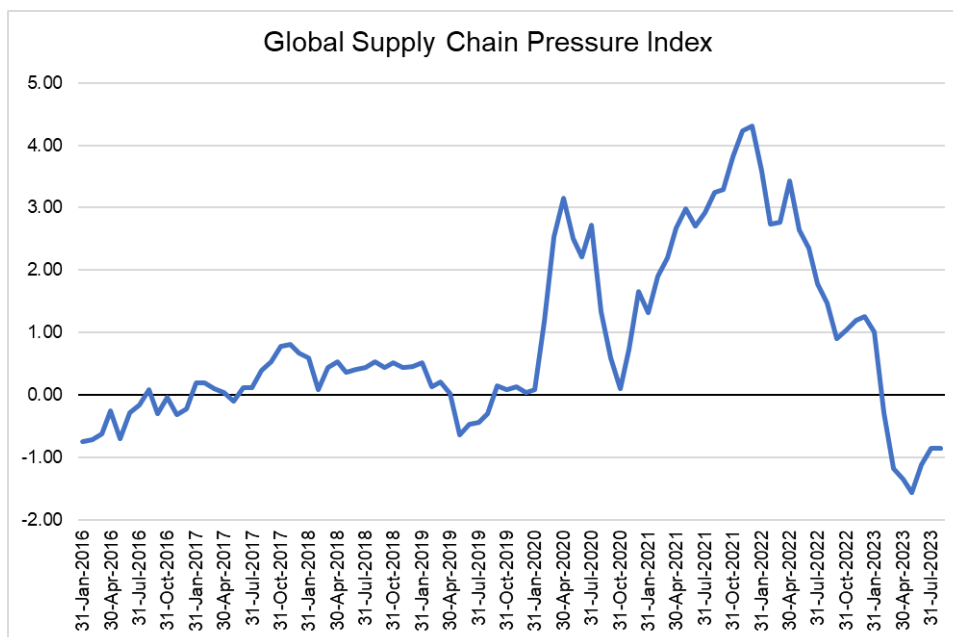


Figure 7: Global Supply Chain Pressure Index⁶⁸

The commission considers that the supply disruptions caused by the COVID-19 pandemic heavily influenced the dynamics of the Australian rebar market during the inquiry period.

Freight costs

The commission considers that these disruptions are now reducing, demonstrated by falling freight costs.

In its submission dated 22 August 2023, InfraBuild highlighted data from the Freightos Baltic Index (FBX) which showed freight prices were declining into December 2022.⁶⁹ The commission has accessed updated FBX data and confirmed that freight prices have fallen dramatically from the inquiry period to pre-pandemic levels (Figure 8).

⁶⁸ Federal Reserve Bank of New York, [Global supply chain Pressure Index \(GSCPI\)](#), Federal Reserve Bank of New York, accessed 12 September 2023.

⁶⁹ EPR 601, nos 29 and 35.

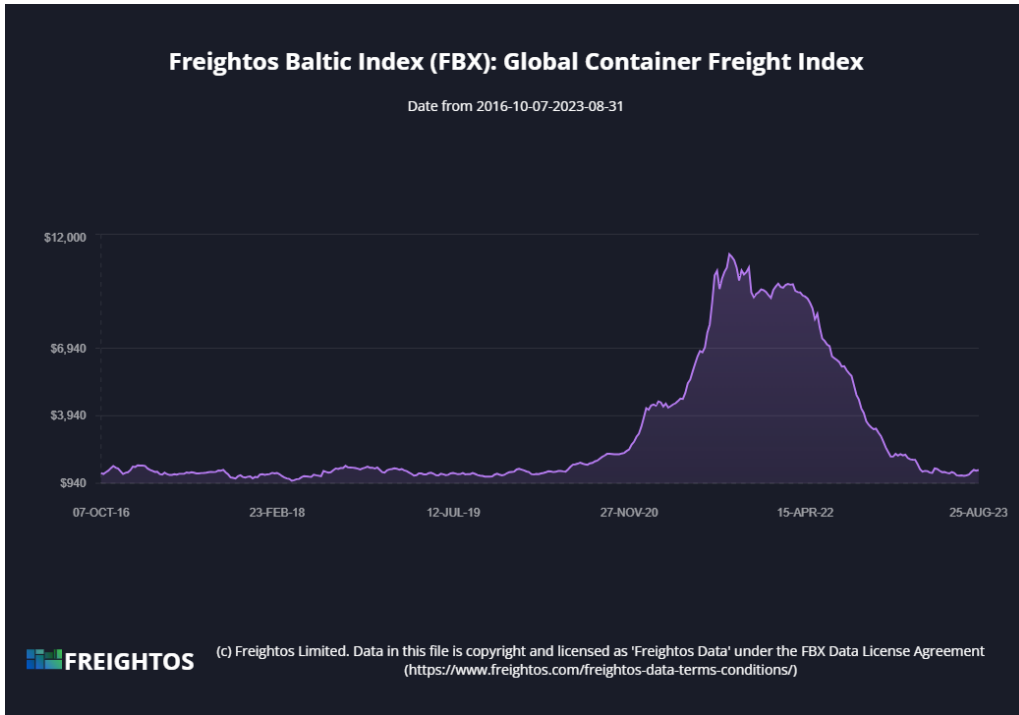


Figure 8: Freightos Baltic Index (FBX), Global Container Freight Index⁷⁰

Data from the ABS on the cost of freight as a proportion of total import value also demonstrates this trend (Figure 9).

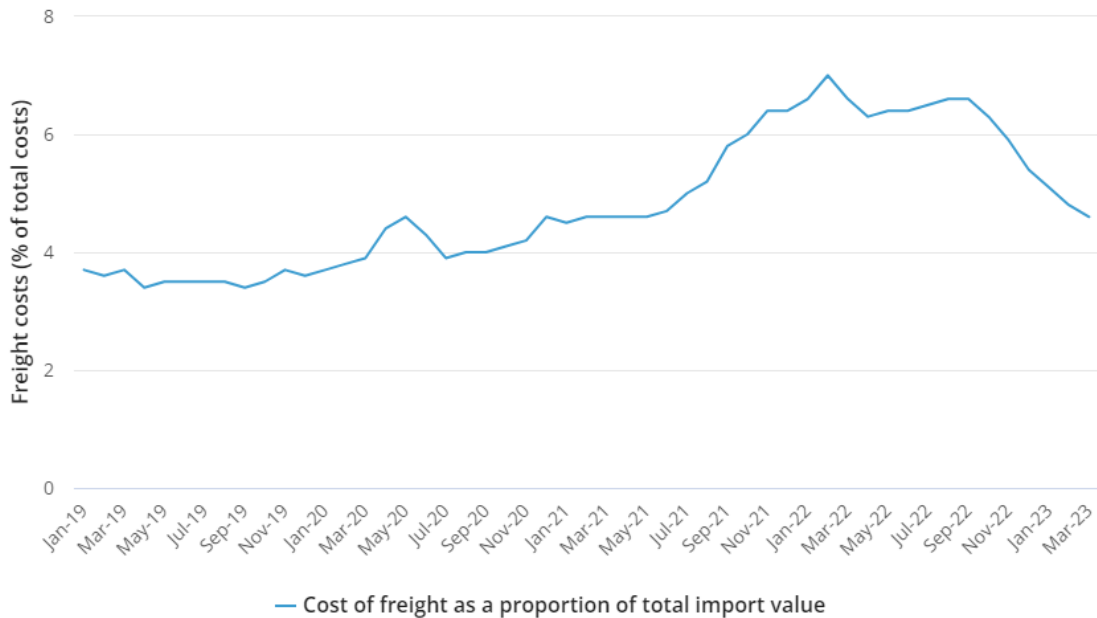


Figure 9: Cost of freight as a proportion of total import value (%) (Australia)⁷¹

⁷⁰ Freightos, [Freightos Baltic Index \(FBX\): Global Container Freight Index](#), 2023, accessed 31 August 2023.

⁷¹ Australian Bureau of Statistics (May 2023), [Spotlight on recent trends in Freight costs](#), ABS website, accessed 31 August 2023.

PUBLIC RECORD

As noted in REP 601, the commission considers rebar to be a commodity product. There are limited ways in which suppliers can differentiate their offering beyond price and service. The commission's analysis of the landed price of imports supplying the Australian market, from the ABF database, has also shown that the Australian market for rebar is highly price sensitive.⁷²

As outlined above, freight costs have fallen dramatically since the inquiry period. The commission considers that rebar imports are now, and will continue to be, more competitive in the Australian market than they were over the inquiry period.

Accordingly, the commission considers that if measures are removed, imports from the subject countries are likely to continue or recur.

2.4.3 The evidence supports that dumping is likely to continue or recur

The commission maintains that the future supply and demand conditions support a finding that exports will continue or recur.

In its letter of request, The ADRP noted that the commission conducted a 'similar assessment' of likely future supply and demand conditions in the Australian market regarding its analysis of whether dumping is likely to continue. The ADRP requested that this section should, 'for the same reasons [as noted earlier], be the subject of the reinvestigation.'⁷³

Despite the predicted moderation, demand drivers for rebar in Australia have continued to grow following the inquiry period. In addition, dramatic decreases in freight costs allow imports to be more competitive.

Updated ABF import data shows that landed import prices for rebar are now falling. The commission considers that to capture sales volumes and market share in a price sensitive market the exporters currently subject to measures would likely seek to export to the Australian market at prices that undercut the existing import offers. Coupled with the current demand for rebar, the commission considers it likely that the subject exporters would reduce prices to dumped levels to compete if measures were removed.

The commission's reinvestigated findings regarding likely future supply and demand conditions support a finding that dumping will continue or recur.

⁷² REP 601, section 5.2.6.

⁷³ Letter of request, 3 July 2023, on the ADRP's website: [ADRP 2023/166](#), p 9.

3 FINDING 2 – The expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury

3.1 Preliminary findings

The Commissioner preliminarily finds that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, material injury.

This preliminary finding reaffirms the Commissioner’s finding from REP 601.

3.2 ADRP request for reinvestigation

The letter of request outlined the ADRP’s request for a reinvestigation into certain findings in REP 601.⁷⁴

The **second finding** that the ADRP requested be reinvestigated is:

[The finding] that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury.

The ADRP requested that:

To the extent (and only to that extent) that the ADC’s assessment of the likely future supply and demand conditions in the Australian market... affects a conclusion or finding that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, material injury, the ADC should similarly reinvestigate the finding or assessment in that regard.

3.3 Commissioner’s assessment

The commission’s assessment of likely future supply and demand conditions in the Australian market does not affect its conclusion that the expiration of the measures would be likely to lead to a continuation or recurrence of material injury.

The conditions which would lead the Australian industry to continue to experience material injury remain:

- The price sensitive nature of the rebar market.
- The existing market share of imports from all sources.
- The Australian industry’s reliance on an IPP model to guide its pricing.⁷⁵

The demonstrated decrease in landed import prices against a backdrop of continued demand for rebar is likely to lead the Australian industry to reduce prices to compete. If

⁷⁴ Letter of request, 3 July 2023, on the ADRP’s website: [ADRP 2023/166](#).

⁷⁵ REP 601, p 78.

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measures were allowed to expire, dumped exports from the subject countries would put downward pressure on prices in the Australian market.

Consequently, Australian industry would likely experience price depression and/or a material erosion in the improvements made since the measures in relation to sales volumes, sales revenue and profit and profitability.

Accordingly, the Commissioner considers that the expiration of the measures as they relate to exporters from the subject countries would be likely to lead to a continuation of, or a recurrence of, the material injury that the current measures are intended to prevent.

