PUBLIC VERSION

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26 August 2025

The Director - Investigations 4
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

CONTINUATION INQUIRY –

STEEL REINFORCING BAR EXPORTED FROM KOREA

Dear Director,

This submission is made on behalf of Dongkuk Steel Mill Co., Ltd ("Dongkuk") to the Statement of Essential Facts Report 660 ("SEF 660"), in relation to the continuation inquiry into steel reinforcing bar exported from the Korea.

Dongkuk is disappointed that SEF 660 contains only a superficial and routine examination and assessment of the appropriate form of measures applicable to prospective rebar exports. We respectfully request that the Commission review and reconsider its preliminary findings in Chapter 9 of SEF 660 regarding the appropriate form of anti-dumping measures. The Commission is urged to recommend the imposition of an ad valorem duty method, pursuant to section 5(7) of the Customs Tariff (Anti-Dumping) Regulation 2013, in lieu of the proposed combination duty method. The ad valorem duty method is supported by the legislative framework, the Commission's own Guidelines on the Application of Forms of Dumping Duty ("the Guidelines"), and the evidence presented in SEF 660.

As Dongkuk has outlined in its previous submission[1] of 2 June 2025, the proposed combination duty method, risks being disproportionately restrictive and inconsistent with the circumstances outlined in this inquiry.. A reconsideration in favor of an ad

[1] EPR 660, Record no. 9

valorem duty would ensure measures that are effective, proportionate, and align with administrative efficiency, without unduly impeding fair trade.

Dongkuk also wishes to highlight relevant information available to the Commission, and that appears to have been overlooked in SEF 660, which weakens its reasoning for proposing the combination duty method.

1. **Ad valorem duty method – alignment with the Guidelines**

Dongkuk submits that the Commission's preference for a combination duty method does not adequately address the evidence or principles outlined in the Guidelines. The ad valorem duty method, applied as a proportion of the actual export price, is the most suitable form under the current circumstances. Below, we outline clear grounds for this position, structured in accordance with the key considerations from the Guidelines and the legislative framework.

a) **Simplicity and administrative efficiency**

The Guidelines explicitly state that the ad valorem duty method is "*the simplest and easiest form of duty to administer when delivering the intended protective effect*". This method avoids the complexities inherent in ascertaining and monitoring a "floor" price under a combination approach.

Further, the adoption of an ad valorem duty method would eliminate the necessity for frequent duty assessments and reviews, which would minimise the allocation of valuable resources by the Commission, Dongkuk, and its customers. This streamlined administration would alleviate the administrative burden on all stakeholders, allowing for more efficient compliance and enforcement without compromising the protective intent of the measures.

In SEF 660, the Commission has not identified any administrative issues that would require deviating from the default preference for the ad valorem duty method. Dongkuk's exports involve straightforward sales structures without evidence of related-party transactions or other complexities that might justify imposing a floor price. Imposing a combination method would introduce unnecessary administrative burden on both the Commission and Dongkuk, leading to frequent reviews to update the floor price, which is a concern highlighted in the Guidelines.

An ad valorem duty would promote efficiency while fully addressing the effects of dumping.

b) Factors warranting an ad valorem duty

The Guidelines identify specific conditions under which a combination duty may or may not be preferable. These include:

- not suited in situations where there are many models or types of the good with significantly different prices;
- suited to circumstances where there are complex company structures with related parties; and where circumvention of measures is likely;
- the 'effective' rate increases in a declining market making it punitive;
- reviews may be more likely due to the effects of a rising or falling market than would be the case with an ad valorem duty method;
- the punitive effect in a falling market of the fixed form of this duty can have adverse effects on downstream industries; and
- the ascertained export price used in this measure can become out-of-date.

In SEF 660, the Commission has relied solely on the first identified factor, by noting that model differences do not exceed 100% in price variance. This is the full extent of the Commission's reasoning without properly considering the other relevant factors.

For example, there is no evidence of Dongkuk utilising complex export sales structures, or likely engaging in price manipulation/circumvention. Absent this risk, an ad valorem duty would prevent dumping without the punitive variable component.

The punitive effects of the variable duty component will be evident given the volatility in global steel rebar market, which have been subject to sustained and significant price fluctuations since the end of the current review period. The Guidelines note that combination duties can be "unreasonably punitive in a falling market", as the variable component amplifies the level of duties when export prices decline legitimately (e.g., due to input cost reductions).

To that end, it is observed that current export prices and Korean domestic prices approximately range from US$[redacted]-$[redacted]/mt for debar in coil products. This compares to the proposed ascertained export price of US$[redacted]/mt, adding an additional US$[redacted]/mt in variable duty payable on future imports. This would equate to an effective

dumping duty rate on Dongkuk's exports of [redacted]%, well beyond the 2.5% margin determined by the Commission. There can be no question that this variable duty component will unfairly impact Dongkuk's ability to achieve export sales at prices equivalent to prevailing domestic prices.

Finally, it is important to note that the ascertained export price takes into account and includes export sales that will be out-of-date by over 2 years by the time the measures are continued in November 2025. As observed in SEF 660, the intervening period has resulted in the global steel market being '… *in a precarious state*', reflecting excess supply and slowing demand. The change in market conditions since the end of the review period, and the expectation for those conditions to continue beyond the continuation of the measures, makes the imposition of an elevated and outdated floor price unreasonable.

Instead, the current conditions warrant recommending the imposition of the ad valorem duty method which provides the right balance between remedying the effects of dumping, whilst ensuring ease of administration.

c) Administrative impact

As noted earlier, imposition of the combination method would introduce an unnecessary administrative burden, as [redacted] **[resource implications]**. This would require substantial resources of the Commission, Dongkuk and importers involved, to rectify an issue that can be prevented by simply recommending the imposition of the ad valorem duty following the continuation of the measures.

Dongkuk urges the Commission to have regard to the administrative impact and resources required, in considering and deciding which of the form of measures is most appropriate at this time given the circumstances outlined above.

2. Combination duty method provides over-protection for Australian industry

Section 269ZHG of the *Customs Act 1901* provides that continued measures must be no more than is necessary to prevent the recurrence of dumping and injury. The proposed combination method risks over-protection for the Australian industry, particularly

given the substantial volumes and lower prices for subject goods imported by the Australian industry prior to, during and subsequent to the review period, indicating that Dongkuk's exports are of limited threat to the Australian industry. An ad valorem duty, reflecting Dongkuk's actual dumping margin, would achieve the corrective objective without establishing unfair barriers to competition, as contemplated in the Guidelines to '*…tailor duties to case-specific circumstances'*.

Of particular relevance to whether the combination duty method would provide an over-protective measure for the Australian industry, the Commission must have regard to and given particular consideration to the Australian industry's own imports of subject goods over the injury analysis period.

It is noted that there is no mention in SEF 660 of the Australian industry's importation of the subject goods. This is despite the industry verification report[2] confirming that '*Infrabuild Newcastle imported and sold a volume of like goods during the investigation period. InfraBuild Newcastle identified the imported products in its sales listings.*

Whilst the verification report provides no understanding of the magnitude of the volumes, it is understood that the import volumes by the Australian industry far exceeded the export volumes by Dongkuk. For example, in the 12-month review period (1 October 2023 to 30 September 2024), Dongkuk's rebar exports totaled [redacted] metric tons. By contrast, it is understood that the Australian industry purchased [redacted] **[Australian industry imports]**.

In reviewing rebar imports in the first quarter of the current review period (December quarter 2023), it is [redacted] **[comparison with Dongkuk export volume]**.

Further, it is understood that the Australian industry also imported a substantial quantity of rebar from [redacted], that may have also exceeded Dongkuk's total exports over the same period.

Despite the confirmed substantial import volume by the Australian industry, none of the injury or market analysis in SEFF 660, reflects this fact. For example, in figures 4 and

[2] EPR 660, Record no. 14.

5, it is unclear whether the Australian industry sales include both self-produced and imported rebar. If so, the charts would be more meaningful and insightful if they separately identified the industry's sales volume of imported rebar, in order to understand the relative magnitude between production and importation, the timing of the decision to import, and the possible reasons for that decision.

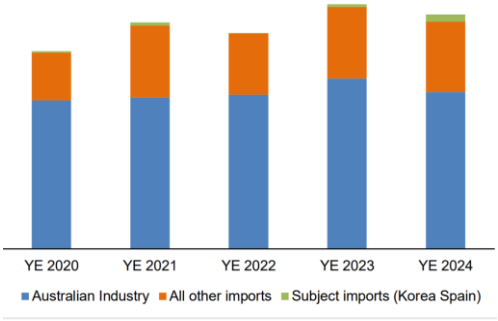

Figure 4: Australian market share of Rebar (MT)

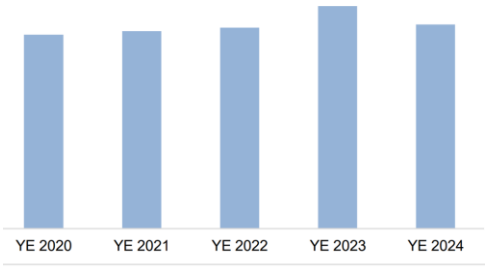

Figure 5: Australian Industry's sales volume (MT)

Further, the market share chart at figure 6 provides no indication whether the Australian industry's imports have been attributed to its market share, or whether they are reflected in the market share of the particular countries of export. Given that it has been the Commission's long-standing practice to attribute an industry's imports to their own market share, it's unclear whether these imports have been properly assessed and attributed.

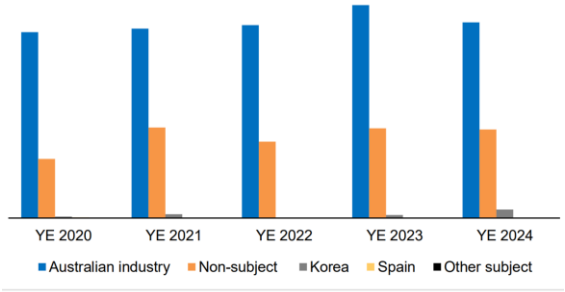

Figure 6: Australian market share of rebar (MT)

Finally, the chart at figure 9 in SEF 660 is relied upon by the Commission to understand the patterns of trade and effect of measures across the range of countries that are both subject to measures and exempt from measures. Given the chart highlights the composition of imports over the previous decade, it would again be insightful if the Australian industry's imports were separately shaded so that the Commission and interested parties could better understand the interaction between the timing of those imports, the corresponding volumes, and the explained reasons.

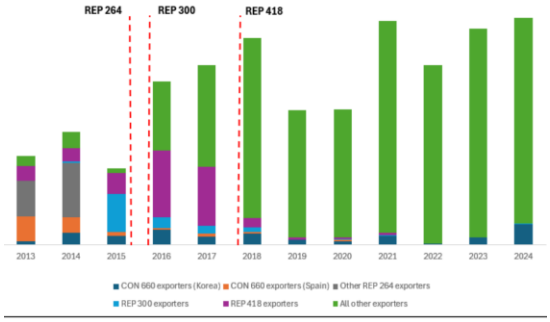

Figure 9 – composition of imports (MT)

Understanding Australian industry's relative import volumes, the source of the exporting country, the timing of such imports, and the FOB export prices relative to Dongkuk's export prices is critical for determining whether the imposition of a floor price is both overly protective, and unreasonable given the Australian industry's access to competitive import price offers.

First, as confirmed by Infrabuild during its verification visit, '… *Australian market pricing is influenced by the price of imported rebar and key price determinants such as scrap metal… InfraBuild provided the verification team with information concerning its current pricing model, which considers import prices of rebar in determining its market prices.* It is reasonable to assume in this circumstance that the export prices of Infrabuild's own imports substantially influenced its own pricing model.

It is also reasonable to consider that if the export prices of Infrabuild's own imports were lower than Dongkuk's actual export prices, then attaching an outdated floor price to Dongkuk's future exports goes well beyond addressing the injurious effects of dumping. It would simply prevent legitimate trade from Dongkuk, and sanction the continuation of the Australian industry's imports at market prices significantly below Dongkuk's outdated floor price.

Second, the timing and volume of the imports would provide valuable insight into whether Infrabuild's decision to import was driven by the well documented and ongoing concerns surrounding its operations, following the collapse of GFG Group's biggest lender in early 2021, the shutdown of Whyalla Steelworks (its related billet supplier at the time) through 2024, and the forced administration of Whyalla Steelworks in early 2025.

None of the issues outlined above relating to the Australian industry's imports, are addressed in SEF 660, which undermines the Commission's reasoning for proposing the combination duty method. A complete and thorough assessment of the industry's import volumes, the corresponding export prices of those imports relative to Dongkuk's equivalent export prices, the timing of the imports, and an understanding of the reasons for its decision to become a significant importer, is critical to understanding whether the imposition of an outdated floor price would provide greater protection to the Australian industry than is required to remedy the effects of dumping.

Dongkuk reiterates that it considers it unreasonable for the Commission to recommend the imposition of an outdated floor price applicable to its future export sales, for the purpose of preventing foreseeable injury to the Australian industry, at the same time as the Australian industry becomes one of the largest importers in the Australian market. This is especially absurd if the industry's decision to import is caused by other factors unrelated to the subject exports from Korea.

3. Non-injurious price

Given the confirmed substantial imports of rebar by the Australian industry during the review period, the Commission's preliminary assessment of the non-injurious price ("NIP") is deficient for determining whether a lesser duty is adequate for addressing the injurious effects of Dongkuk's exports.

It is important to firstly acknowledge that the Australian industry's imports must be treated as non-injurious for the purposes of assessing causation, irrespective of whether the goods are dumped or not. That is, any injury stemming from the Australian industry's imports must not be attributed to rebar exported by Dongkuk. It follows then that the FOB export prices of the Australian industry's imports are by definition, reflective of non-injurious prices.

It is critical then that the Commission compare the FOB export prices of the Australian industry's imports, with Dongkuk's equivalent FOB export prices. If it is found that Dongkuk's export prices were above the Australian industry's own imports, then it is reasonable to conclude that Dongkuk's exports were also non-injurious. This is especially true given that Infrabuild confirmed to the Commission that import prices were a relevant consideration into domestic pricing model. So, if the export prices of Australian industry's imports were lower than equivalent export prices by Dongkuk, it is stands to reason that Dongkuk's exports did not influence the Australian industry's domestic prices.

In that circumstance, it is unreasonable for the Commission to recommend the imposition of a floor price on Dongkuk's future exports by reference to the ascertained export price ("AEP") over the review period, when the AEP is itself non-injurious. It is also illogical, and conflicting with the intent of the dumping system, that a minimum floor price be imposed on certain exporters, whilst the Australian industry continues to import at prices that significantly undercut goods subject to measures.

This situation would reflect a clear misuse of the dumping system, whereby the Australian industry seeks protection from non-injurious exports with the imposition of a high outdated floor price, whilst it continues to import rebar at substantial volumes and levels of undercutting. Given that the decision to import appears to be driven by the internal issues affecting Infrabuild's supply constraints of billet, production capacity constraints, and financial pressures, it is inappropriate for the Commission to determine the NIP using a constructed selling price that takes into account the EBITDA of Liberty InfraBuild Ltd's consolidated group in the inquiry period.

As outlined in the Commission's own practice manual relating to calculating the unsuppressed selling price:

> *the Commission will generally not depart from the approach taken in the original investigation or a previous review, unless there has been a change in circumstances that either makes the earlier USP approach unreasonable, or less preferred amongst the other available options.*

Of relevance then is that the fact during the last expiry review, the Commission examined and confirmed that the Australian industry's imports were insignificant during the review period. Given that no such conclusion has been made during this current expiry review, and based on our understanding of the Australian industry's import volumes during the injury period, it is clear that the Australian market has undergone a major structural change, whereby the Australian industry is facing production capacity constraints and effectively become one of the largest importers of rebar.

This structural change in the market warrants departing from the previously relied upon methodology of constructing the unsuppressed selling price, and instead determining the NIP by reference to the FOB export price of the Australian industry's imports during the review period. Should the Commission not consider it appropriate to depart from its proposed unsuppressed selling price methodology, then Dongkuk contends that the evidence of a structural change in the Australian market, whereby the Australian industry is now a major importer of rebar at prices substantially undercutting those by Dongkuk, again warrants and supports the imposition of the ad valorem duty method.

4. Conclusion

Dongkuk urges the Commission to reconsider its assessment of the preferred form of measure, and recommend that the ad valorem duty method be imposed on its future exports. In reaching this recommendation, the Commission is requested to have regard to:

- Dongkuk's simple company structure and export sales channel;
- the punitive impact of a substantially higher 'effective' duty rate caused by the sharp decline in contemporary market prices;
- the administrative burden and resource implications from an immediate review of measures, along with numerous potential duty assessments;

- the outdated nature of the ascertained export price relative to contemporary market prices;
- the excessive safeguarding of the Australian industry in view of its substantial imports in the past 2-3 years, and the potential reasons for its decision to become one of the largest importers in the Australian market.