



Consideration report number: 495

Application for a dumping duty notice and a countervailing duty notice

Submitted by: Liberty OneSteel (Newcastle) Pty Ltd

In relation to steel reinforcing bar exported to Australia from the Republic of Turkey

12 November 2018

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Abbreviations

Abbreviations/short form	Full reference
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADRP	Anti-Dumping Review Panel
AUD	Australian dollars
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
CY	calendar year
DBIC	steel reinforcing bar in coil form
DBIL	steel reinforcing bar in straight form
EXW	ex-works
FOB	free on board
FIS	free into store
FY	financial year
the goods	the goods the subject of the application (also referred to as the goods under consideration)
Habas	Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi AS
Indonesia	Republic of Indonesia
Korea	Republic of Korea
GOT	Government of Turkey
Liberty Steel or the applicant	Liberty OneSteel (Newcastle) Pty Ltd
the Manual	<i>Dumping and Subsidy Manual</i>
the Material Injury Direction	<i>Ministerial Direction on Material Injury 2012</i>
the Minister	Minister for Industry, Science and Technology
rebar	steel reinforcing bar
R&D	research and development
ROI	return on investment
SCM Agreement	World Trade Organisation Agreement on Subsidies and Countervailing Measures
SG&A	selling, general and administrative
Thailand	the Kingdom of Thailand
TRY	Turkish lira
Turkey	The Republic of Turkey
USD	United States Dollar
USDOC	United States Department of Commerce
VAT	value added tax
WTO	World Trade Organization

1. Findings and recommendations

This report provides the result of the consideration by the Anti-Dumping Commission (the Commission) of an application under subsection 269TB(1) of the *Customs Act 1901*¹ (the Act) by Liberty OneSteel (Newcastle) Pty Ltd (Liberty Steel).² The application seeks the publication of dumping and countervailing duty notices in respect of steel reinforcing bar (rebar or the goods) exported to Australia from the Republic of Turkey (Turkey).

Liberty Steel alleges that the Australian industry for rebar has experienced material injury caused by rebar exported to Australia from Turkey at dumped and subsidised prices.

Further, or in the alternative, Liberty Steel alleges that there is a threat of material injury to the Australian industry from rebar exported to Australia from Turkey at dumped and subsidised prices.

The legislative framework that underpins the making of an application and the Commission's consideration of an application is contained in Divisions 1 and 2 of Part XVB.

1.1 Findings

In accordance with subsection 269TC(1), the Commission has examined the application and is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (as set out in section 2.2 of this report);
- there is an Australian industry in respect of like goods (as set out in section 2.4 of this report); and
- there appear to be reasonable grounds for the publication of dumping and countervailing duty notices in respect of the goods the subject of the application (as set out in chapters 3, 4, 5 and 6 of this report).

1.2 Recommendations

Based on the above findings, the Commission recommends that the Commissioner of the Anti-Dumping Commission (Commissioner) decide not to reject the application and initiate an investigation to determine whether dumping and countervailing duty notices should be published.

The Commission observes that the applicant has provided data up to 30 June 2018 as part of its application. As outlined in the Commission's *Dumping and Subsidy Manual* (the Manual), the investigation period specified by the Commission is generally the 12 months preceding the initiation date and ending on the most recently completed quarter.³ Therefore, the Commission recommends that the applicant

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

² Liberty Steel's application includes production data from two other related party rebar producers, OneSteel NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd. Both related party producers provided letters of support for the application. The applicant and the related party entities are referred to collectively by the applicant in its application as the Australian industry for like goods.

³ See chapter 3 of the Manual, available at www.adcommission.gov.au.

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submit a further quarter of data (up to 30 September 2018), to ensure the investigation examines contemporary data.

The Commission further recommends that:

- exports to Australia during the investigation period 1 October 2017 to 30 September 2018 be examined to determine whether dumping and subsidisation have occurred; and
- details of the Australian market from 1 October 2014 be examined for injury analysis purposes.

If the Commissioner agrees with these recommendations, the Commissioner must give public notice of the decision in accordance with the requirements set out in subsection 269TC(4).

2. The application and the Australian industry

2.1 Lodgement of the application

2.1.1 Legislative framework

The procedures for lodging an application are set out in section 269TB.

The procedures and timeframes for the Commissioner's consideration of the application are set out in section 269TC.

2.1.2 The Commissioner's timeframe

Table 1 summarises the timeframes in relation to this application.

Event	Date	Details
Application lodged and receipted by the Commissioner under subsections 269TB(1) and (5)	19 October 2018	The Commission received an application from Liberty Steel which alleges that the Australian industry has experienced and may suffer material injury caused by rebar exported to Australia from Turkey at dumped and subsidised prices.
Applicant provided further information in support of the application under subsection 269TC(2A)	22 October 2018	The Commission received further information in support of the application which restarted the 20 day period for consideration of the application.
Consideration decision due under subsection 269TC(1)	12 November 2018 ⁴	The Commissioner shall decide whether to reject or not reject the application within 20 days after the applicant provided further information.

Table 1 – Application timeframes

2.2 Compliance with subsection 269TB(4)

2.2.1 Finding

Based on the information submitted by the applicant, the Commission considers that the application complies with subsection 269TB(4).

2.2.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for dumping and countervailing duty notices if, among other things, the Commissioner is not satisfied that the application complies with subsection 269TB(4).

2.2.3 The Commission's assessment

Table 2 summarises the Commission's assessment of compliance with subsection 269TB(4).

⁴ If a legislated due date falls on a weekend or a public holiday in Victoria, the effective due date is taken to be the next working day.

Requirement for the application	Details
Lodged in writing under subsection 269TB(4)(a)	The applicant lodged in writing confidential and non-confidential versions of the application. The non-confidential version of the application can be found on the public record on the Commission's website at www.adcommission.gov.au .
Lodged in an approved form under subsection 269TB(4)(b)	The application is in the approved form (Form B108) for the purpose of making an application under subsection 269TB(1).
Contains such information as the form requires under subsection 269TB(4)(c)	The applicant provided: <ul style="list-style-type: none"> • a completed declaration; • answers to all questions that were required to be answered by the applicant; • completed all appendices; and • sufficient detail in the non-confidential version of the application to enable a reasonable understanding of the substance of the information submitted in confidence.
Signed in the manner indicated in the form under subsection 269TB(4)(d)	The application was signed in the manner indicated in Form B108 by a representative of the applicant.
Supported by a sufficient part of the Australian industry under subsection 269TB(4)(e) and determined in accordance with subsection 269TB(6)	Liberty Steel claims that it, and related party producers are the only Australian producers of rebar. Based on the information available, the Commission is satisfied that there is sufficient support for the application. The application is compliant with subsections 269TB(6)(a) and (b).
Lodged in the manner approved under section 269SMS for the purposes subsection 269TB(4)(f)	The application was lodged in a manner approved in the Commissioner's instrument made under section 269SMS, being by email to an address nominated in that instrument. The application was therefore lodged in a manner approved under subsection 269SMS(2).

Table 2 – Compliance with subsection 269TB(4)

2.3 The goods the subject of the application

Table 3 outlines the goods as described in the application and their corresponding tariff classification.

Full description of the goods, as subject of the application
<p>The goods are hot-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 include all steel reinforcing bar meeting the above description regardless of the particular grade, alloy content or coating.</p> <p>Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.</p>

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Tariff classification (<i>Schedule 3 of the Customs Tariff Act 1995</i>) ⁵			
Tariff code	Statistical code	Unit	Description
7213.10.00	42	tonne	Rebar Coil
7214.20.00	47	tonne	Rebar Straights
7227.90.10	69	tonne	Rebar Coil – Other Alloy
7227.90.90	42 ⁶	tonne	Rebar Coil – Alloy
7227.90.90	01, 02, 04 ⁷	tonne	Rebar Coil – Alloy
7228.30.10	70	tonne	Rebar Straights – Other Alloy
7228.30.90	40	tonne	Rebar Straights – Alloy
7228.60.10	72	tonne	Rebar Straights – Other Alloy
Previous investigations			
<p>Investigation No. 264 (INV 264), the findings of which can be found in <i>Anti-Dumping Commission Report No. 264</i> (REP 264), assessed claims that rebar was exported to Australia from the Republic of Korea (Korea), Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand (Thailand) and the Republic of Turkey (Turkey) at dumped prices. The investigation found that the goods exported from Korea, Singapore, Spain and Taiwan (with the exception of Power Steel Co. Ltd) were exported at dumped prices, and that the dumped goods had caused material injury to the Australian industry. Anti-dumping measures were imposed from 19 November 2015 (Anti-Dumping Notice (ADN) No. 2015/133 refers⁸). On 20 October 2015, INV 264 was terminated as far as it related to exports from Malaysia, Thailand, Taiwan (for exports by Power Steel Co. Ltd) and Turkey (ADN No. 2015/122 refers).</p> <p>The then Parliamentary Secretary's decision to impose anti-dumping measures was reviewed by the Anti-Dumping Review Panel (ADRP) and on 4 March 2016, the ADRP found that the decision of the then Parliamentary Secretary was the correct and preferable decision except in relation to Nervacero S.A. The ADRP's recommendation was published in ADRP Report No. 34.⁹ As a result of the ADRP's recommendations (which were accepted by the then Parliamentary Secretary), rebar exported from Spain by Nervacero S.A are not subject to the dumping duty notice applying to rebar from Korea, Singapore, Spain and Taiwan.</p> <p>Investigation No. 300 (INV 300), the findings of which can be found in <i>Anti-Dumping Commission Report No. 300</i> (REP 300), assessed claims that rebar was exported to Australia 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. Anti-dumping measures were imposed from 13 April 2016 (ADN No. 2016/39 refers).</p> <p>Investigation No. 322 (INV 322), the findings of which can be found in <i>Anti-Dumping Commission Report No. 322</i> (REP 322), assessed claims that rebar exported to Australia from China had received countervailable subsidies. The investigation found that the goods</p>			

⁵ Turkey is classified as a Developing Country under Part 4 to Schedule 1 of *Customs Tariff Act 1995*.

⁶ Operative until 31 December 2014.

⁷ Operative from 1 January 2015.

⁸ Public notice of the decisions by the then Parliamentary Secretary to the Minister for Industry, Innovation and Science (the then Parliamentary Secretary) can be found on the Commission's website at www.adcommission.gov.au.

⁹ Available at www.adreviewpanel.gov.au.

exported from China were subsidised, however the injury caused by that subsidisation was unable to be isolated and therefore no measures were imposed (ADN No. 2016/95 refers).

Investigation No. 418 (INV 418), the findings of which can be found in *Anti-Dumping Commission Report No. 418* (REP 418), assessed claims that rebar was exported to Australia from Greece, the Republic of Indonesia (Indonesia), Spain exported by Nervacero S.A., Taiwan exported by Power Steel Co. Ltd and Thailand at dumped prices. On 22 January 2018, INV 418 was terminated as far as it related to exports from Indonesia by PT Ispat Panca Putera and PT Putra Baja Deli (ADN No. 2018/08 refers). The investigation found that the goods exported from Greece, Indonesia (with the exception of PT Ispat Panca Putera and PT Putra Baja Deli), Spain (by Nervacero S.A.), Taiwan (by Power Steel Co. Ltd) and Thailand were exported at dumped prices, and that the dumped goods had caused material injury to the Australian industry. Anti-dumping measures were imposed from 8 March 2018 (ADN No. 2018/10 refers).

On 27 April 2018, the ADRP received two requests to review the then Parliamentary Secretary to the Minister's decision as it relates to exports from Taiwan by Power Steel Co. Ltd. and Spain by Nervacero S.A. At the date of publication of this report, the ADRP's review is ongoing.¹⁰

Table 3 – The goods tariff classifications and relevant past investigations

2.4 Like goods and the Australian industry

2.4.1 Finding

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application on the basis that:

- Liberty Steel produces goods that are identical in all respects to, or have characteristics that closely resemble, the goods the subject of the application; and
- the goods are wholly manufactured in Australia.

2.4.2 Legislative framework

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

Like goods are defined under subsection 269T(1). Subsections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

2.4.3 Locally produced like goods

Table 4 summarises the Commission's assessment of whether the locally produced rebar are identical to, or closely resemble, the goods the subject of the application and are therefore like goods.

This assessment is based on a comparison of the information provided by Liberty Steel in its application and the Commission's like goods assessment in REP 264, REP 300, REP 322 and REP 418. The Commission notes that to on-site verification of locally produced rebar was undertaken by the Commission in the course of the investigations that led to REP 264, REP 300 and REP 418. In those investigations,

¹⁰ Further details of the ADRP Review No. 2018/80 and the reinvestigation request are available on the ADRP's website at www.adreviewpanel.gov.au.

the Commission has found that locally produced rebar were like goods to rebar imported into Australia.

Factor	The Applicant's claims	The Commission's assessment
Physical likeness	Locally produced rebar and the imported goods are manufactured to the requirements of the Australian standards for the applicable end-use, and are alike in physical appearance. The imported and locally produced rebar are manufactured in a similar range of grades, diameters, lengths and forms.	<p>The Commission is satisfied that:</p> <ul style="list-style-type: none"> • both the goods the subject of the investigation and the goods produced by the Australian industry are physically alike in all practical aspects; • the goods the subject of the application were imported under tariff classifications for rebar; • the locally produced rebar and the imported goods are manufactured to the same requirements of the Australian Standard; • the Australian industry and exporters from Turkey have accreditation with the Australian Certification Authority for Reinforcing Steel; • that imported rebar and domestically produced rebar are manufactured to a similar range of lengths, diameters and forms and are alike in appearance; and • although there are minor differences in indentations, ribs and grooves on the rebar produced locally and the goods the subject of the application, these minor differences do not significantly modify the performance of the rebar.¹¹ <p>The Commission is satisfied with the reasonableness of the claims by Liberty Steel in relation to the physical likeness between the goods the subject of the application and the locally produced rebar.</p>

¹¹ REP 264, p. 19 refers.

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Factor	The Applicant's claims	The Commission's assessment
Commercial likeness	<p>Locally produced rebar competes directly with imported rebar in the Australian market, is commercially interchangeable and uses similar distribution channels.</p>	<p>The Commission has examined the data in the Australian Border Force (ABF) import database and concluded that:</p> <ul style="list-style-type: none"> importers source rebar from multiple sources; and following the imposition of measures as a result of prior investigations, importers switched importing from countries (and exporters) subject to measures to importing from Turkey. <p>Additionally, the Commission has observed from the information provided in the confidential attachments to the application and analysis of the ABF import database that close price competition exists in the Australian market between the imports of rebar and the Australian produced goods. This suggests low product differentiation and a high degree of substitutability.</p> <p>The Commission is satisfied with the reasonableness of the claims by Liberty Steel in relation to the commercial likeness between the goods the subject of the application and the locally produced rebar.</p>
Functional likeness	<p>Locally produced rebar and the imported rebar have comparable or identical end uses.</p> <p>Both the imported and the local produced rebar are either used 'as is', or are subject to post production processes such as bending, welding and cutting.</p> <p>Both the goods and the like goods are predominantly used to reinforce concrete and precast structures and are considered functionally substitutable.</p>	<p>The Commission is satisfied that the imported rebar and locally produced rebar are used for the same end uses. Both the imported and locally produced rebar may be subject to post production processing.</p> <p>The Commission is satisfied with the reasonableness of the claims by Liberty Steel in relation to the functional likeness between the goods the subject of the application and the locally produced rebar.</p>

Factor	The Applicant's claims	The Commission's assessment
Production likeness	Locally produced rebar is manufactured in a similar manner and via similar manufacturing processes to the imported goods.	<p>In INV 264, the Commission found that locally produced rebar and rebar produced in Turkey:</p> <ul style="list-style-type: none"> • were manufactured in a similar manner, using the same or similar raw materials; and • the key production steps and processes were near identical.¹² <p>Liberty Steel has provided sufficient information relating to the accreditation of the producers and exporters of the goods the subject of the application in order to assess the production likeness.</p> <p>The Commission is satisfied with the reasonableness of the claims by Liberty Steel in relation to the production likeness between the goods the subject of the application and the locally produced rebar.</p>
Commission's assessment		
Based on the analysis above, the Commission considers it is reasonable for Liberty Steel to claim that locally produced rebar closely resembles the goods the subject of the application and therefore the two are like goods. The Commission will further examine the issue of like goods during the course of the investigation.		

Table 4 – Comparison of the locally produced goods and like goods

2.4.4 Manufactured in Australia

Table 5 summarises the Commission's assessment of whether like goods are wholly manufactured in Australia and whether the like goods are therefore considered to have been manufactured in Australia.

¹² REP 264, p. 19 refers.

The Applicant's claims
A related party to the applicant, OneSteel Manufacturing Pty Limited, produces steel billets, which are transported to Liberty Steel and related party producers' manufacturing facilities which are located in Australia. At the manufacturing facilities, the 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 rebar may be formed into straights (DBIL) or spooled into a coil (DBIC).
The Commission's assessment
The Commission's view is that, based on the description of the manufacturing process provided in the application, the goods have been wholly manufactured in Australia and thus have been produced in Australia by Liberty Steel and related party producers.

Table 5 – Manufacturing of like goods in Australia

2.5 Australian industry information

Table 6 summarises the Commission's assessment of whether Liberty Steel has provided sufficient information in the application to analyse the performance of the Australian industry.

Have the relevant appendices to the application been completed?		
A1	Australian production	Yes
A2	Australian market	Yes
A3	Sales turnover	Yes
A4	Domestic sales	Yes
A5	Sales of other production	Yes
A6.1	Cost to make and sell (CTMS) and profit – Domestic sales	Yes
A6.2	CTMS and profit – Export sales	Yes
A7	Other injury factors	Yes
General administration and accounting information – Liberty Steel		
Ownership	Liberty Steel is ultimately owned by a foreign corporation, Liberty Global Holding Pte Ltd. ¹³ Liberty Steel operates as part of Liberty OneSteel which is within the Liberty Steel division of the Liberty House Group of businesses headquartered in London, in the United Kingdom. Liberty House Group is a member of the GFG Alliance which is also headquartered in London. ¹⁴	
Operations	Metal production and fabrication.	
Financial year	The applicant's financial year (FY) is from 1 July to 30 June.	
Audited accounts	Liberty Steel provided a combined group audited financial statement for FY 2015 to FY 2017 relating to certain subsidiaries of A.C.N. 004 410 833 Limited (formerly Arrium Limited) (Subject to Deed of Company Arrangement). The statement covers the entities acquired by the GFG Alliance on 31 August 2017.	

¹³ Australian Securities & Investments Commission current and historical company extract refers.

¹⁴ <https://www.gfgalliance.com/about-us/>

	<p>Due the nature of its relationship with its ultimate owner, Liberty Steel and its related party rebar producers in Australia are not obliged to produce audited financial statements however are required to produce financial statements in accordance with the requirements of the <i>Corporations Act 2001</i>. At the time of preparing this report, the Commission was advised that these financial statements were pending, subject to allowances in the timeframes that entities must provide such reports.</p> <p>In relation to FY2018, which covers the applicant's proposed investigation period, Liberty Steel provided a trial balance representing the accounts relevant to the rod and bar production and sales activities of Liberty Steel itself, OneSteel NSW Pty Ltd and The Australian Steel Company (Operations) Pty Ltd. The Commission will conduct further inquiries throughout the investigation in relation to the financial records that are considered relevant to the application.</p>		
Annual reports	<p>Due the nature of the relationship with its ultimate owner, the activities of Liberty Steel and its related party rebar producers in Australia are covered by the annual reports produced by the ultimate holding, Liberty Global Holding Pte Ltd,¹⁵ a member of the GFG Alliance.¹⁶ GFG Alliance is a private UK registered organisation and does not produce publicly available annual reports.</p>		
Production and sales information		Cost to make and sell information	Other injury factors
Liberty Steel has provided detailed sales information for the period 1 July 2017 to 30 June 2018. The Commission has requested data for the September 2018 quarter to be provided.		Liberty Steel has provided detailed CTMS information for the period 1 July 2015 to 30 June 2018. Data has been provided for rebar in DBIL and DBIC form as well as in aggregate. The Commission has requested data for the September 2018 quarter to be provided.	Data provided from FY 2015. The Commission has requested data for the September 2018 quarter to be provided.
The Commission's assessment			
<p>Based on the information in the application, the Commission is satisfied that there is sufficient data on which to analyse the performance of the Australian industry for the purposes of this report. The analysis in chapters 3, 4, 5 and 6 have relied on the data submitted in the application.</p> <p>However, as noted in section 1.2, the injury analysis period for the investigation will be from 1 October 2014 and the investigation period will be 1 October 2017 to 30 September 2018. The Commission will require that Liberty Steel provide data for the most recent quarter, 1 July 2018 to 30 September 2018. The Commission will use the contemporary data in its analysis for the purposes of the investigation.</p>			

Table 6 – Sufficiency of Liberty Steel's application data

¹⁵ Australian Securities & Investments Commission current and historical company extract refers.

¹⁶ <https://www.gfgalliance.com/about-us/>

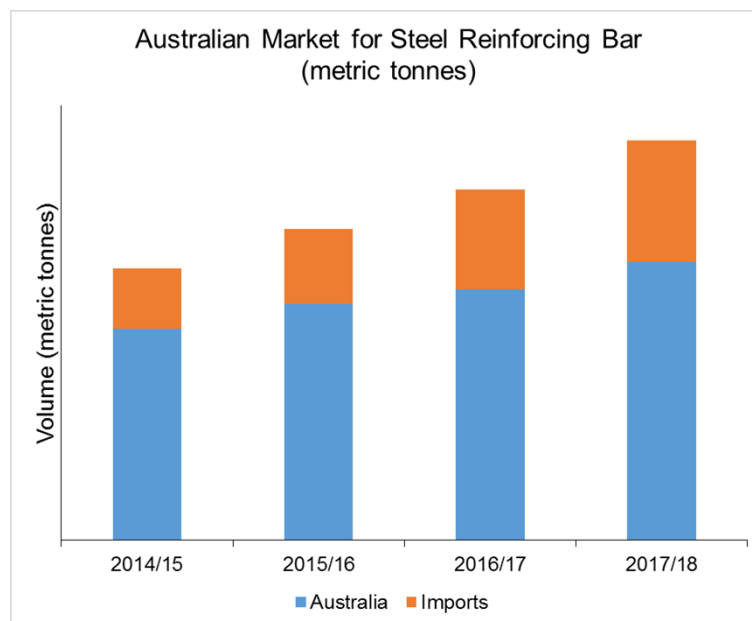
2.6 Market size

Liberty Steel estimated the size of the Australian market for rebar using its own data (and data of related party producers), data it obtained from third party sources in relation to exports of rebar to Australia and data it provided in relation to periods which were covered by prior investigations into rebar. Liberty Steel completed Confidential Appendix A2 to the application, using the above data to estimate the size of the Australian market.

The Commission compared Liberty Steel's estimates of import volumes to data sourced from the ABF import database. The Commission's estimates of import volumes obtained from the ABF import database is based on the following methodology:

- data was extracted from the ABF import database based on relevant tariff classifications and statistical codes;
- the data was filtered based on the goods description to exclude import transactions that appeared not to be the goods under consideration;
- the data was filtered to exclude goods with a dumping duty exemption for not being the goods; and
- the data was filtered to exclude line items where the free on board (FOB) price per tonne was outside a range of \$400 to \$1000 AUD (considered a reasonable price range for the goods based on observations from previous investigations, reviews and inquiries into rebar) in order to exclude outlying data.

Liberty Steel's estimates of import volumes from Turkey were found to be overstated by a material amount and its estimates of total import volumes also appeared to be overstated by a material amount.¹⁷ On account of the variances observed in Liberty Steel's estimates, the Commission has relied on data from the ABF import database and Liberty Steel's sales volume in Australia to estimate the size of the Australian market for steel reinforcing bar as depicted in Figure 1. Figure 1 compares years ending 30 June.



¹⁷ Confidential Attachment 2 – Table 4.5

Figure 1 – Australian market for rebar

The Commission estimates that the size of the Australian market for rebar increased in each year from 2014/15. In assessing the size of the Australian market, the Commission also notes that the market for rebar consists of two product sub-categories, DBIL and DBIC form. For the purpose of this report, the Commission has aggregated both product categories for estimating the size of the Australian market. As further information is obtained during the course of the investigation more detailed analysis of each sub-category may be undertaken.

The Commission's estimate of the size of the Australian market for rebar is at **Confidential Attachment 1**.

3. Reasonable Grounds – dumping

3.1 Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the claims that:

- the goods have been exported to Australia from Turkey at dumped prices;
- the estimated dumping margin for exports from Turkey is greater than 2 per cent and therefore is not negligible; and
- the estimated volume of goods from Turkey that appear to have been dumped is greater than 3 per cent of the total Australian import volume of goods and therefore is not negligible.

3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the Minister for Industry, Science and Technology (the Minister) must be satisfied of in order to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods, i.e. that dumping has taken place (to an extent that is not negligible). This issue is considered in the following sections.

3.3 Export price

3.3.1 Legislative framework

Export price is determined by applying the requirements in section 269TAB taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA.

3.3.2 The Applicant's estimate

Table 7 summarises the approach taken by the applicant to estimate export prices and the evidence relied upon.

Country	Basis of estimate	Details
Turkey	Third party data source pursuant to subsection 269TAB(3).	Relying on data purchased from third party sources, the applicant estimated FOB export prices and quantities of rebar exported to Australia from Turkey. Separate export prices were calculated for DBIL and DBIC based on the relevant tariff classifications.

Table 7 – Methodology for estimating export prices by Liberty Steel

3.3.3 The Commission's assessment

The Commission examined the export price calculations and supporting evidence provided by Liberty Steel. The Commission considers that the applicant's approach to estimating export prices is reasonable considering limitations in the information available to the applicant.

To verify the reliability of the export price estimated by Liberty Steel, the Commission compared the export price in the application to data obtained from the ABF import database, using the methodology outlined in section 2.6. The Commission also compared the export price estimates provided by Liberty Steel in relation to DBIL and

DBIC to export prices obtained from the relevant tariff subheadings for each product variant in the ABF import database.

The Commission identified that Liberty Steel's weighted average price for the 12 month period to 30 June 2018 for each DBIL and DBIC were overstated in a range between two and four per cent when compared to the prices in ABF import database. Further examination of Liberty Steel's monthly price estimates revealed larger variations which the Commission considers material. However, given there are limitations in the information reasonably available to the applicant, such variances are not unexpected. Notwithstanding, under the circumstances, the Commission considers the ABF import data to be more reliable than the applicant's estimates and will therefore rely on these figure to assess the level of dumping discussed at section 3.5.

In addition, since the Commission found, at section 2.6 that the applicant's estimate of export volumes from Turkey are materially overstated, the Commission will rely on import volumes in the ABF import database.

Liberty Steel's calculation of export price is at **Confidential Attachment 2**.

The Commission's calculations of export price and import volumes is at **Confidential Attachment 3**.

3.4 Normal value

3.4.1 Legislative framework

Normal value is determined by applying the requirements in section 269TAC taking into account whether:

- the purchase or sale of the goods was an arms length transaction under section 269TAA;
- the goods were sold in the ordinary course of trade under section 269TAAD;
- there has been an absence or low volume of sales of like goods in the country of export; and
- whether the situation in the market of the country of export is such that sales in that country are not suitable for determining normal value under subsection 269TAC(1).

3.4.2 The Applicant's estimate

Table 8 summarises the approach taken by the applicant to estimate normal values and the evidence relied upon.

Country	Basis of estimate	Details
Turkey	<ul style="list-style-type: none"> Using domestic prices for DBIL Turkey at ex-works (EXW) terms. For DBIC, a constructed normal value based on: <ul style="list-style-type: none"> cost to make data in relation to Turkish steel mills; selling, general and administrative (SG&A) expenses; and an amount for profit. Adjustments for both DBIL and DBIC. 	<p>Liberty Steel's domestic selling prices in Turkey for DBIL were sourced via paid subscription. Prices for DBIL are based on 12 mm diameter rebar produced to conform to the ASTM A 615/A615M, BS4449 or equivalent standards at EXW delivery terms.¹⁸</p> <p>Liberty Steel's estimation of the EXW price of DBIC is a construction of Turkish steel mills cost to make and SG&A cost and profit sourced via paid subscription.</p> <p>To determine a normal value at the FOB level, Liberty Steel has applied upwards adjustments to the EXW prices for DBIL and DBIC to account for inland transport charges to the port of export, Izmir, and country of origin export costs such as documentation, loading and customs fees. These costs were obtained from Turkish based freight forwarders affiliated with Liberty Steel's local freight forwarder and broker.</p> <p>Adjustments were calculated on a per tonne basis assuming the goods are containerised, with a packed weight of 25 tonnes per 20 foot long container.</p>

Table 8 – Methodology for estimating normal value by Liberty Steel

3.4.3 The Commission's assessment

The Commission examined the domestic EXW prices for DBIL provided by Liberty OneSteel in the application and notes the following:

- prices are indicative of a specification of DBIL that is comparable to exports to Australia;
- prices are exclusive of Value Added Tax (VAT); and
- prices are set on an actual weight basis.

The Commission notes the following in relation to an examination of the domestic constructed EXW price for DBIC determined by Liberty Steel:

- the cost to make data obtained through paid subscription relates to production costs converted to US dollars for a known Turkish producer of billet and wire rod;
- the cost to make data was observed to rely on costs which were specific to wire rod production which assumed a material cost base using scrap metal;
- the SG&A expenses were determined using data relating to a known Turkish producer of wire rod production which was obtained through paid subscription;
- the SG&A expenses, applied as a flat rate for the period ending 30 June 2018 is derived from a weighted average of the ratio of administrative expenses

¹⁸ Liberty Steel's application advises that the latest revision of the BS4449 standard incorporates steel with yield strength that is equivalent to the grade of rebar exported to Australia.

and cost of goods sold for the 2012 to 2014 fiscal years. SG&A costs were not available for 2015 or 2017 in the data relied on by Liberty Steel; and

- the amount for profit was observed to be based on the Turkish producer's 2017 net profit margin.

In relation to the adjustments Liberty Steel has applied to the EXW prices discussed above, the Commission considers these costs reasonably reflect the mode of shipping and likely export related costs incurred by exporters from Turkey.

Relying on the examination of Liberty Steel's method to determine EXW prices for DBIL and DBIC, the Commission concludes that these prices are a reasonable reflection of the prices that are likely achieved by Turkish producers of rebar in the domestic market on the basis that:

- the prices for DBIL is contemporaneous and relates to a specification of goods which would be covered by the goods description; and
- the constructed price for DBIC is based on costs incurred by known Turkish producers of rebar whose goods would be covered by the goods description and relies on information that is reasonably available to the applicant.

As a result, the Commission considers that Liberty Steel's estimates of normal value for DBIL and DBIC in Turkey appear to be reasonable and reliable for the purpose of assessing its application.

Liberty Steel's estimates of normal value is at **Confidential Attachment 4**.

3.5 Dumping margins

3.5.1 Legislative framework

Dumping margins are determined in accordance with the requirements of section 269TACB.

Dumping margins and dumping volumes cannot be negligible, otherwise the investigation is terminated. Whether the dumping margins and dumping volumes are negligible is assessed under section 269TDA.

3.5.2 The Commission's assessment

The applicant calculated a weighted average dumping margin based on the export prices and normal values it provided, as described above. Table 9 summarises the dumping margin estimated by the applicant and dumping margin calculated by the Commission based on revisions it made to the applicant's export prices. Dumping margins are expressed as a percentage of the export price.

Country	The Applicant's estimate	The Commission's estimate	Volume
Turkey	8.2% ¹⁹	12.6% ²⁰	6.3% ²¹

¹⁹ Application – Table B-6.2.

²⁰ Based on the applicant's estimate of normal value and the Commission estimates of export price and volume data from the ABF import database having regard to the method outlined at section 2.6 in relation to the determination of the size of the Australian market.

²¹ Based on import volume data from the ABF import database and having regard to the method outlined at section 2.6 in relation to the determination of the size of the Australian market.

Table 9 – Dumping margin and volume estimates

Based on the Commission's estimates as outlined in Table 9, the Commission is satisfied that the dumping margin and volume of dumped goods are above negligible levels.

The calculations of dumping margin calculations and assessment of import volumes is provided at **Confidential Attachment 5**.

4. Reasonable grounds – subsidisation

4.1 Findings

Pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the applicant's claims that:

- the goods exported to Australia from Turkey have been subsidised;
- the estimated subsidy margin for exports of the goods from Turkey is greater than 2 per cent and therefore is not negligible;²² and
- the estimated volume of goods from Turkey that appear to have been subsidised is greater than 4 per cent of the total Australian import volume of goods and therefore is not negligible.

4.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a countervailing duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a countervailing duty notice.

Under section 269TJ, one of the matters that the Minister must be satisfied of in order to publish a countervailing duty notice is that subsidisation has taken place (to an extent that is not negligible). This issue is considered in the following sections.

4.3 Consultation with the Government of Turkey

In accordance with subsection 269TB(2C), the Commission invited the Government of Turkey (GOT) for consultations during the pre-initiation phase. The purpose of the consultation is to provide an opportunity for the GOT to respond to the claims made within the application in relation to countervailable subsidies, including whether they exist and, if so, whether they are causing, or are likely to cause, material injury to an Australian industry, with the aim of arriving at a mutually agreed solution.

To assist in determining whether it wished to undertake consultations and what it would like to consult on, the GOT was provided with a non-confidential version of the countervailing application prior to initiation of the investigation.

The GOT advised the Commission that it wished to participate in consultations during the consideration phase. A teleconference was held on 9 November 2018 between representatives of the Commission and the GOT. The GOT provided a written submission by email at the conclusion of the teleconference (**Non-confidential Attachment 6 refers**). The following items were discussed:

- trade between Turkey and Australia in general;
- the status of certain subsidy programs alleged by the applicant. In particular, the GOT outlined that a number of programs:
 - have been repealed and no longer exist;
 - are not used by exporters of rebar to Australia;
 - were found not to be countervailable by other authorities; or
 - confer little to no benefit to exporters of rebar to Australia.
- the Commission gave a summary of the investigative process.

²² Turkey is a developing country and accordingly the threshold for determining whether countervailable subsidies are negligible is 2 per cent (subsection 269TDA(16)).

The Commission invites the GOT for further consultations during the investigation.

4.4 Subsidy programs

4.4.1 Legislative framework

The determination as to whether there is a countervailable subsidy is made in accordance with subsection 269T(1), subsection 269T(2AA), section 269TACC and section 269TAAC.

4.4.2 Evidence relied on by the applicant

Liberty Steel's subsidy application relies on available information including findings from two United States Department of Commerce (USDOC) investigations which resulted in the imposition of countervailing measures against exporters of steel concrete reinforcing bar from Turkey. These two USDOC investigations concluded in 2014 (which examined an investigation period of 1 January 2012 to 31 December 2012) and 2017 (which examined an investigation period of 1 January 2015 to 31 December 2015). The 2014 investigation imposed countervailing measures against all exporters from Turkey, except Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas). The 2017 investigation imposed countervailing measures against Habas.

Liberty Steel provided copies of the Preliminary Determination and Final Determination for investigation which concluded in 2017 (Case No.C-489-830).

Liberty Steel also referred to other steel cases involving exporters from Turkey more generally.

Liberty Steel's application did not refer to Turkey's 31 August 2017 notifications pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the World Trade Organisation (WTO) Agreement on Subsidies and Countervailing Measures (SCM Agreement).²³

Listed in the table below are the 32 subsidy programs referred to in Liberty Steel's application. The name, category and overall number of the programs may be subject to change as further information is obtained during the course of the investigation.

²³ *New and Full Notification Pursuant to Article XVI:1 of the GATT1994 and Article 25 of the SCM Agreement*, available at https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=239298,239310,239192,238966,238768,238560,238519,238516,238488,238418&CurrentCatalogueIdIndex=8&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=TrueMEASURES

PUBLIC RECORD

Program number and description	Details/Summary of claims
1 – Natural Gas for Less than Adequate Remuneration	<p>Liberty Steel contends that Turkish steel producers with vertically integrated power plants receive countervailable subsidies by purchasing natural gas at discounted prices from a “State Economic Enterprise”. The applicant cites the recent USDOC’s investigations which found that the government authority was providing a financial contribution in the form of goods or services and that natural gas sold by the government authority was predominantly used by, and specific to, power producers.</p> <p>The USDOC determined the amount of benefit using the Organisation for Economic Co-operation and Development’s (OECD) 2015 Europe natural gas prices published by the International Energy Agency as a benchmark.</p> <p>The applicant also advises that the government authority recently increased its gas prices to power generators by 50 per cent. The large magnitude of this adjustment indicates that prices were at low levels and the applicant asserts may continue to be at discounted levels. Liberty Steel contends that the program is specific and current, and that the levels found in USDOC investigations are relevant to the application. Liberty Steel also notes that there is no evidence that one exporter, Çolakoğlu Metalurji A.Ş., purchases natural gas from the government authority on the basis that it utilised a coal fired power generator.</p>
2 – Land for Less and Adequate Remuneration 3 – Electricity for Less and Adequate Remuneration	<p>Liberty Steel relies on the findings in the 2017 USDOC countervailing investigation into steel concrete reinforcing bar from Turkey (Case No.C-489-830) to support its claim that exporters from Turkey may still avail themselves of these programs. In the USDOC investigation, which examined the period CY2015, the USDOC verified these programs not to have been used by Habas in the period of investigation.</p>
4 – Provision of Lignite for Less than Adequate Remuneration	<p>Liberty Steel identified these programs in other steel cases involving exporters from Turkey and contends that exporters from Turkey may still avail themselves of these programs in their exports to Australia.</p>
5 – Deductions from Taxable Income for Export Revenue	<p>Following USDOC’s investigations, Liberty Steel contends that Turkish taxpayers are eligible to deduct 0.5 per cent of foreign income earned for certain export activities from their corporate income taxes. The applicant states that the tax program is administered by the GOT Ministry of Finance.</p> <p>The USDOC found that the income tax deduction constituted a financial benefit provided by the government authority and that since the benefit is contingent on export revenue, it was specific. The benefit is equal to the amount of tax saved by the exporter. Liberty Steel contends that the program is specific and current, and that the levels found in USDOC’s investigations are relevant to the application.</p>

PUBLIC RECORD

Program number and description	Details/Summary of claims
6 – Import duty rebates/drawbacks under Article 22 of Turkey's Domestic Processing Regime (RDP) Resolution 2005/839 (RDP duty drawback program)	<p>The USDOC found that one exporter, Habas, had received benefits in the form of import duty rebates/drawbacks under Article 22 of Turkey's Domestic Processing Regime Resolution 2005/839 (RDP duty drawback program). The USDOC determined the application of adverse facts available was warranted.</p> <p>Liberty Steel did not provide exact details of the type of subsidy that applied but contends that the subsidy is specific and evidences a government authority providing a measurable financial benefit. Liberty Steel contends that the program is specific and current, and that the levels found in USDOC's investigations are relevant to the application.</p>
7 – Investment Encouragement Program VAT and Import Duty Exemptions	Liberty Steel relies on the findings in the 2017 USDOC countervailing investigation into steel concrete reinforcing bar from Turkey (Case No.C-489-830) to support its claim that exporters from Turkey may still avail themselves of these programs.
8 – R&D Income Tax Deduction	In the USDOC investigation, which examined the period CY2015, the USDOC found that these programs did not confer a measurable benefit. As a result the USDOC did not make a determination regarding financial contribution or specificity.
9 – Pre-shipment Turkish Lira Export Credits	Liberty Steel relies on the findings in the 2017 USDOC countervailing investigation into steel concrete reinforcing bar from Turkey (Case No.C-489-830) to support its claim that exporters from Turkey may still avail themselves of these programs. In the USDOC investigation, which examined the period CY2015, the USDOC verified these programs not to have been used by Habas in the period of investigation.
10 – Pre-shipment Foreign Currency Export Credits	
11 – Pre-export Credits	
12 – Short-term Export Credit Discounts	
13 – Withholding of Income Tax on Wages and Salaries	
14 – Exemption from Property Tax	
15 – Property Tax Law 1319	Liberty Steel identified these programs in other steel cases involving exporters from Turkey and contends that exporters from Turkey may still avail themselves of these programs in their exports to Australia.
16 – Inward Processing Certificate Exemption Program	
17 – Free Zones Law 3218 (approved June 6, 1985)	
18 – Free Zones Law 3218: Exemption from Income Tax on Wages Paid to Workers	
19 – Tax, Duty and Land Benefits for Turkish Rebar Producers Located in Free Zones	Liberty Steel relies on the findings in the 2017 USDOC investigation into steel concrete reinforcing bar from Turkey (Case No.C-489-830) to support its claim that exporters from Turkey may still avail themselves of this program. In the USDOC investigation, which examined the period CY2015, the USDOC verified these programs not to have been used by Habas in the period of investigation.

PUBLIC RECORD

Program number and description	Details/Summary of claims
20 – Assistance to Offset Costs Related to AD/CVD Investigations	<p>Following USDOC's investigations, Liberty Steel contends that Turkish exporters subject to foreign trade investigations can receive financial support for legal fees incurred. The financial support is provided by the Turkish Exporters' Assembly (TEA) which has all exporter associations within their jurisdiction and is legally required to defend the interests of their members. The TEA works with the Ministry of Economy to oversee and instruct relevant industry-specific exporters' associations to provide assistance. The TEA delegates its authority to provide assistance via directives.</p> <p>The USDOC found that this benefit is only available to exporters and therefore specific. The benefit is equal to the amount of financial assistance provided to the exporter. Liberty Steel contends that the program is specific and current, and that the levels found in USDOC's investigations are relevant to the application.</p>
21 – Rediscount Program	<p>Following USDOC's investigations, Liberty Steel contends that Turkish exporters received financial support in the form of loans from the GOT, via Turk Eximbank which is the sole export credit agency in Turkey.²⁴ The applicant states that the rediscount program was designed to support Turkish manufacturers producing goods for export or for use by exporters. Loans are transferred from the GOT via Turk Eximbank and the Central Bank of the Republic of Turkey. The program is administered by Turk Eximbank and is contingent on export commitment and therefore specific.</p> <p>The benefit is equal to the amount of interest saved by the exporter when compared with similar commercial loans. The USDOC applied a discounted benchmark interest rate to calculate the benefit. The applicant contends that the government authority recently increased its benchmark interest rate which implies a higher subsidy benefit. Liberty Steel contends that the program is specific and current, and that the levels found in USDOC's investigations are relevant to the application.</p>
22 – Social Security Premium Support	<p>Liberty Steel relies on the findings in the 2017 USDOC countervailing investigation into steel concrete reinforcing bar from Turkey (Case No.C-489-830) to support its claim that exporters from Turkey may still avail themselves of these programs.</p> <p>In the USDOC investigation, which examined the period CY2015, the USDOC found that these programs did not confer a measurable benefit. As a result the USDOC did not make a determination regarding financial contribution or specificity.</p>
23 – Foreign Trade Company Export Loans	<p>Liberty Steel relies on the findings in the 2017 USDOC countervailing investigation into steel concrete reinforcing bar from Turkey (Case No.C-489-830) to support its claim that exporters from Turkey may still avail themselves of these programs. In the USDOC investigation, which examined the period CY2015, the USDOC verified these programs not to have been used by Habas</p>
24 – Regional Investment Scheme	
25 – Large-scale Investment Scheme	

²⁴ <http://www.oecd.org/tad/xcred/eca.htm> refers.

Program number and description	Details/Summary of claims
26 – Investments Provided under Turkish Law No. 5746	in the period of investigation.
27 – Product Development R&D Support-UFT	
28 – Employer's Share in Insurance Premiums Program	
29 – Turkish Development Bank Loans	
30 – Industrial R&D Projects Grants Program	
31 – Investment Encouragement Program (IEP)	Liberty Steel identified these programs in other steel cases involving exporters from Turkey and contends that exporters from Turkey may still avail themselves of these programs in their exports to Australia.
32 – Social Security Premium Incentive	

Table 10 –Summary of countervailable subsidies claimed

4.4.3 The Commission's assessment

The Commission considers that the evidence relied on by Liberty Steel at section 4.4.2 establishes a reasonable basis for the alleged subsidy programs and is sufficiently relevant, reliable and contemporaneous for current purposes.

The existence and nature of a number of the subsidy programs appears to be confirmed by publicly available information on the WTO website reported by the GOT in accordance with its reporting obligations under the SCM Agreement.

Programs 1-32 may be countervailable subsidies as that term is defined in the Act, because they appear to be financial contributions by the GOT that involve the conferral of financial benefits which are specific. Having regard to sections 269T, 269TACC and 269TAAC, the Commission considers that Liberty Steel's claims of the existence of the subsidy programs appear to be based on reasonable grounds.

4.5 Amount of countervailable subsidy

4.5.1 Legislative framework

Subsidy margins are determined under section 269TACD.

The amount of the countervailable subsidisation and the volume of subsidised goods cannot be negligible. Whether the countervailable subsidisation and the volume of subsidised goods are negligible is assessed under section 269TDA.

For current purposes, the Commission must assess whether there appear to be reasonable grounds for claims that the rate of countervailable subsidisation and the volume of subsidised goods are not negligible.

4.5.2 The Commission's assessment

As noted at 4.4.2, Liberty Steel has relied on two investigations conducted by USDOC into foreign government assistance through subsidies to exporters or

producers from Turkey.²⁵ Liberty Steel also referred to other steel cases involving exporters from Turkey more generally.

Liberty Steel has not provided an estimated amount of subsidy received overall or subsidy margins for the identified programs, however the Commission accepts that an applicant can only provide information available to it. Evidence regarding amounts of subsidies received is rarely readily available and so estimating subsidy margins may be difficult or impossible.

The Commission considers that Liberty Steel has broadly identified the nature of the subsidies, their main characteristics, whether the subsidies are paid directly or indirectly to the exporter/producer, and how the exporter/producer benefits from the subsidies. Liberty Steel also provided, by way of example, the countervailable subsidy rates for a number of programs found by USDOC for Habas.

The Commission considers that Liberty Steel provided reasonable evidence of receipt of subsidies, where possible, in relation to exporters of rebar from Turkey.

The Commission will examine and verify the matters outlined in the GOTs submission as part of the investigation.

The Commission has not conducted any previous subsidy investigations in relation to Turkey, however, for purposes of this report, the Commission used export related data from previous dumping investigations and subsidy rates from the Habas example to estimate indicative subsidy margins for Turkish exporters to Australia. On the basis of those indicative subsidy margins, the Commission considers that there appear to be reasonable grounds for claims that the rate of countervailable subsidisation is not negligible.

Based on the Commission's estimates at section 3.5.2, which are based on information from the ABF import database, imports of rebar from Turkey represent 6.3 per cent of the total import volume of rebar for the period, and are therefore not negligible as defined in subsection 269TDA(8).

²⁵ Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey investigations numbers 701-TA-564, 731-TA-1338, 731-TA-1339, 731-TA-1340 at https://www.USDOC.gov/trade_remedy/731_ad_701_cvd/investigations.htm refers.

5. Reasonable grounds – injury to the Australian industry

5.1 Findings

Pursuant to subsection 269TC(1)(c), having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury in the form of:

- loss of market share;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced return on investment (ROI);
- reduced capacity utilisation;
- increased stock levels of finished goods;
- reduced cash flow; and
- lost revenue.

Injury in the form of reduced investment in research and development (R&D) and value of assets deployed was considered however has been set aside for the purposes of this report on the basis that the information currently available is not considered sufficient to support the applicant's claim. This injury factor will be further assessed during the course of the investigation.

5.2 Legislative framework

Under sections 269TG, 269TJ and 269TJA²⁶, one of the matters that the Minister must be satisfied of in order to publish a dumping duty and a countervailing duty notice is that the Australian industry has experienced material injury. This issue is considered in the following sections.

5.3 The Applicant's claims

Liberty Steel claims that the Australian industry has been injured through:

- loss of market share;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced ROI;
- reduced investment in R&D and value of assets deployed;
- reduced capacity utilisation;
- increased stock levels of finished goods;

²⁶ Section 269TJA relates to concurrent dumping and countervailable subsidisation. This provision provides that, where goods are both dumped and subsidised, and because of the combined effects of the dumping and the amount of countervailable subsidy received in respect of the goods, material injury to an Australian industry producing like goods has been or is being caused, the Minister may publish a notice under either subsection 269TG(1), 269TJ(1), or notices under both subsections 269TG(1) and 269TJ(1) at the same time. Section 269TJA is relevant in this investigation due to the combined effects of dumping and subsidisation in relation to goods exported to Australia from Turkey.

- reduced cash flow; and
- lost revenue.

Liberty Steel claimed that material injury arising from the price effects of the dumped and subsidised goods exported from Turkey commenced in or about the September 2017 quarter. Material injury arising from volume effects of the dumped and subsidised goods exported from Turkey commenced in or about the December 2017 quarter.

5.4 Approach to injury analysis

5.4.1 Legislative framework

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

The Commission has also had regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).²⁷

5.4.2 The Commission's approach

This chapter analyses the economic condition of the Australian industry and provides an assessment as to whether there are reasonable grounds supporting that the Australian industry has experienced injury.

The Commission's injury analysis relies on the data contained in Liberty Steel's application and data obtained from the ABF import database.

Liberty Steel and related party producers are the only manufacturers of rebar in Australia. As a result, the Commission is satisfied that Liberty Steel's data is relevant and reliable for the purposes of this report. The Commission's assessment of the injury to the Australian industry is in essence an assessment of the injury to Liberty Steel. In addition, the Commission also highlights that the period subject to the assessment covers a time where the sales and production of rebar was subject to different ownership structures. For clarity, the Commission points out that in the period up to 31 August 2017, the production and sale of rebar was under the control of the former group of companies under Arrium Limited. After this time relates to the new owner of the former Arrium Limited entities, Liberty Global Holding Pte Ltd.

The Commission's analysis below examines Liberty Steel's sales of rebar on an aggregated basis. During the course of the investigation, the Commission may choose to supplement this analysis, where applicable, with a more detailed analysis at a product level, e.g. DBIL and DBIC.

5.4.3 Injury analysis period

The purpose of the injury analysis period is to allow the Commission to identify and examine trends in the Australian market which in turn assists the Commission in its examination of whether material injury has been caused by dumping and subsidisation over the investigation period.

The injury analysis period for the purposes of this report is from 1 July 2014. All figures below compare years ending 30 June.

As noted in section 1.2, the investigation will focus on a different investigation period and injury analysis period, meaning that the following analysis is subject to change.

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

5.4.4 Volume effects

Liberty Steel did not claim lost sales volume as an injury factor in its application, however, it has claimed injury in the form of loss of market share.

5.4.5 Sales volume

Figure 2 below shows that the volume of Liberty Steel's domestic sales of rebar increased in each year from 2014/15.

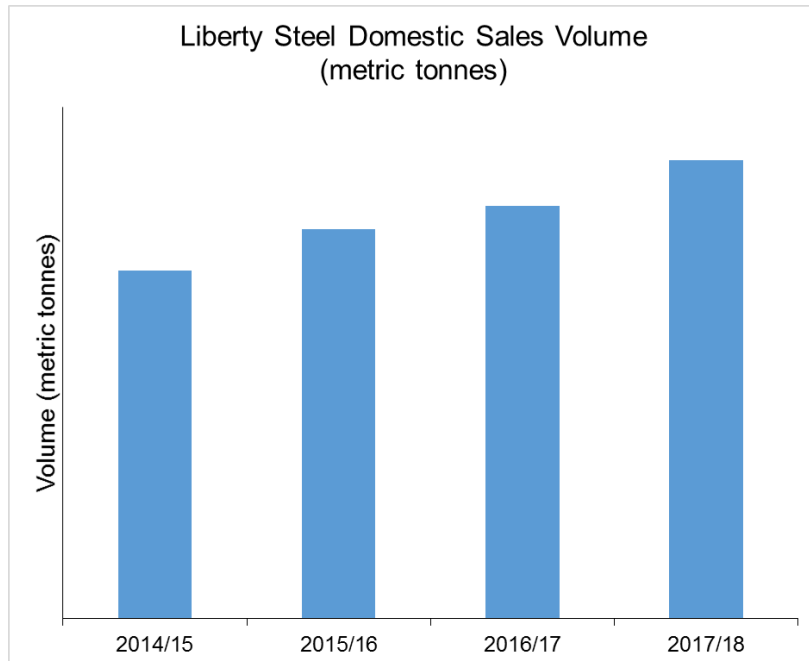


Figure 2 – Liberty Steel Domestic Sales Volume (metric tonnes)

5.4.6 Market share

Figure 3 below shows the Australian industry's market share in each year from 2014/15. The Australian industry has experienced decreasing levels of market share for each year from 2014/15. In the 2017/18 period, the decrease in the Australian industry's market share has coincided with a shift away from imports from countries subject to anti-dumping measures to countries where anti-dumping measures do not currently apply. Further analysis reveals that the market share for goods from Turkey in 2017/18 represents a 10 fold increase over 2016/17. The Commission notes that the Australian industry's decrease in market share occurs in the context that the total Australian market was increasing.

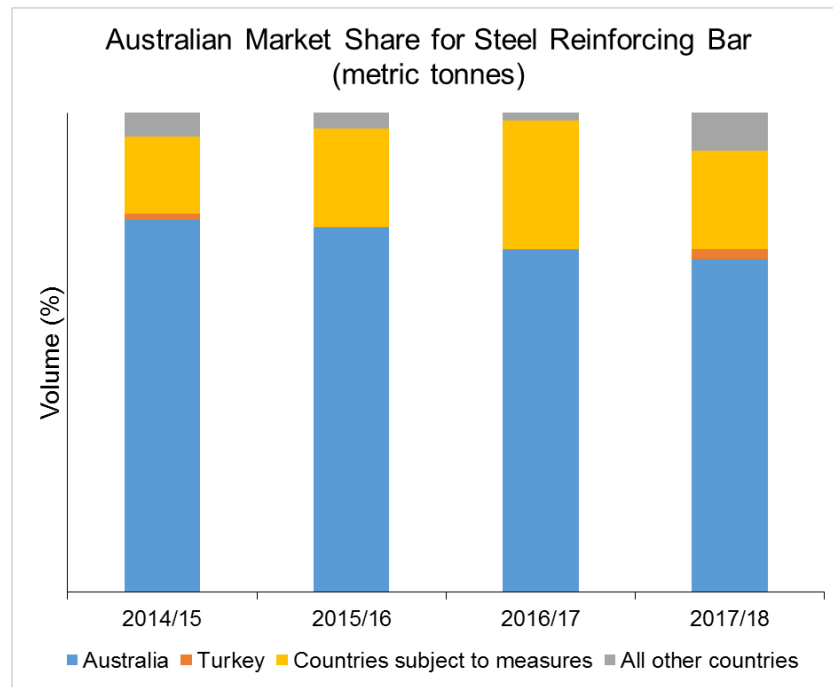


Figure 3 – Australian market share

5.4.7 Import volumes

Figure 4 below, which is based on the Commission's estimates of import volumes, shows that, over the injury analysis period examined for the purposes of this report:

- imports from Turkey in 2017/18 represent a 10 fold increase over the volume imported from Turkey in 2016/17; and
- imports from Turkey in 2017/18 and other countries not subject to measures also appear to have displaced imports from countries subject to measures.

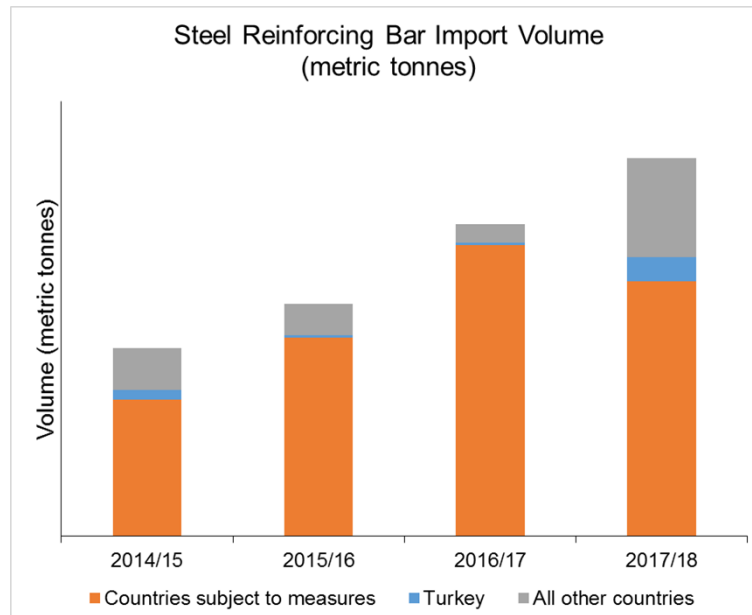


Figure 4 – Import volume by country

5.4.8 Conclusion – volume effects

Based on the above, the Commission considers that there are reasonable grounds to support that Liberty Steel appear to have experienced injury in terms of loss of market share.

The data relied on for the assessment of the volume effects is provided at **Confidential Attachment 2**.

5.5 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

Liberty Steel claims that the Australian industry has experienced price suppression, but not price depression.

Figures 5 below shows the movement in unit CTMS and unit selling prices provided by Liberty Steel over the injury analysis period examined.

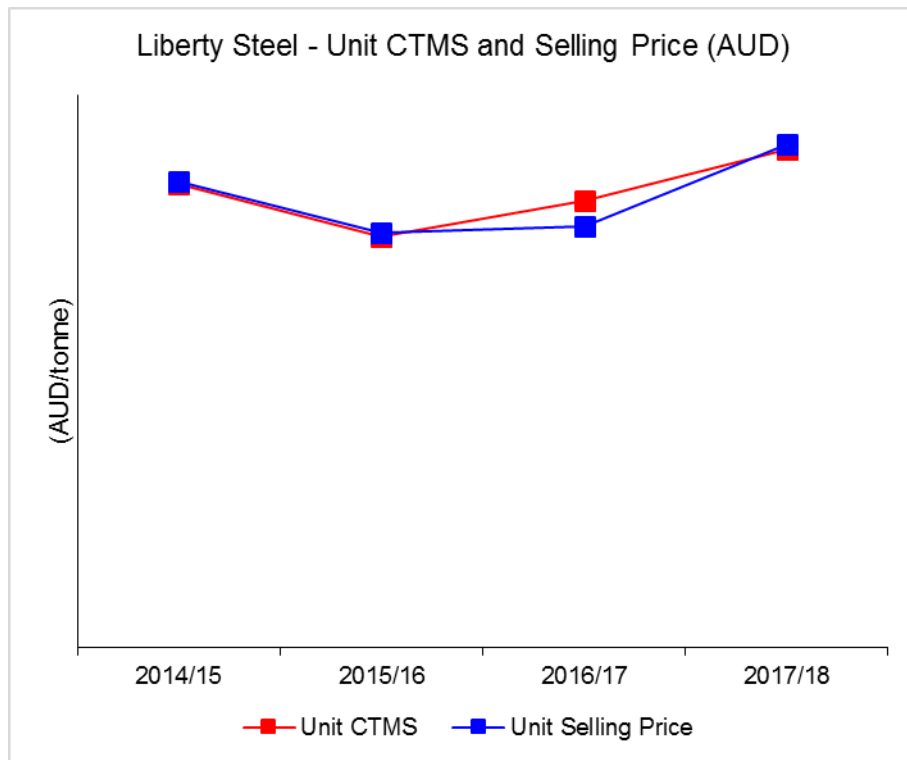


Figure 5 – Liberty Steel unit CTMS and unit selling prices

Figures 5 above shows that:

- unit selling prices generally increased in the three year period from 2015/16. However, the rate of increase in 2017/18 exceeded that of the prior year;
- unit selling prices in 2017/18 were the highest of all years in the injury analysis period examined;
- unit CTMS increased steadily from 2015/16; and
- with the exception of the 2015/16 period, unit selling prices exceeded unit CTMS by a small margin.

5.5.1 Conclusion – price effects

Notwithstanding that unit selling prices have increased in 2017/18 compared to the prior year, these increases are accompanied with sustained increases in unit CTMS. With the exception of 2016/17, unit selling prices were observed to only marginally exceed unit CTMS in all other years.

Based on the above, there appear to be reasonable grounds to support Liberty Steel's claims that it has experienced injury in the form of price suppression.

Such a conclusion is supported by the Material Injury Direction which states that in cases where it is asserted that the Australian industry would have been more prosperous if not for the presence of dumped or subsidised goods, the Commissioner is directed to be mindful that a decline in the Australian industry's rate of growth may be just as relevant as the movement of an industry from growth to decline.

The data relied on for the assessment of the price effects is provided at **Confidential Attachment 7**.

5.6 Profit and profitability effects

Figure 6 below shows Liberty Steel total profit and unit profitability over the injury analysis period examined for rebar sales.

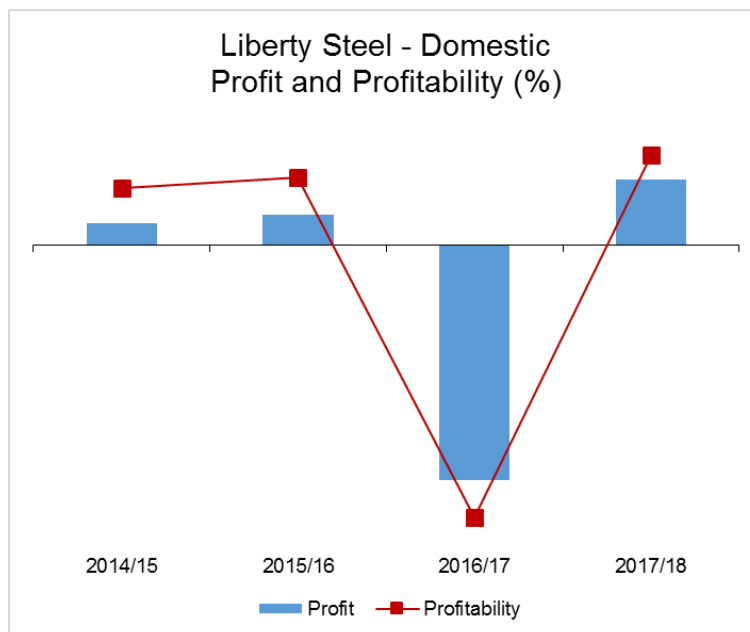


Figure 6 – Liberty Steel total profit and unit profitability for rebar

Figure 6 shows Liberty Steel's sales of rebar returned to profitability in the 2017/18 period after incurring significant losses in 2016/17. The total profit and unit profitability reported in 2017/18 was the highest out of each year of the injury analysis period examined.

5.6.1 Conclusion – profit and profitability effects

With the exception of the 2016/17 period, the data at Figure 6 shows that Liberty Steel's sales of rebar were found to be profitable. However, this unit profitability was observed to be marginal. The Commission considers that Liberty Steel's total profit and unit profitability would likely have been higher during the injury analysis period examined had it been able to further increase prices in response to rising costs and eliminate price suppression.

Based on the above, and taking into account the Material Injury Direction, there appear to be reasonable grounds to support the claim that the Australian industry has experienced injury in the form of reduced profits and reduced profitability.

The data relied on for the assessment of the profit and profitability effects is provided at **Confidential Attachment 7**.

5.7 Other injury factors

Liberty Steel claimed injury in the form of 'other injury factors' regarding:

- reduced ROI;
- reduced investment in R&D and value of assets deployed;
- reduced capacity utilisation;
- increased stock levels of finished goods;
- reduced cash flow; and
- lost revenue.

The Commission analysed the data in Confidential Appendix A-7 of Liberty Steel's application and makes the following observations.

5.7.1 Return on investment

Liberty Steel's ROI was observed to improve over the injury analysis period examined such that its ROI in 2017/18 was the highest it had been since 2014/15. Liberty Steel's improved ROI was found to be in part the result of a reduced level of assets deployed in the production of rebar. However, Liberty Steel have claimed that its ROI would have been higher had it not been for the downward pressure on prices which in turn led to reduced profit levels.

5.7.2 Reduced investment in R&D and value of assets deployed

The Commission found that Liberty Steel's expenditure on R&D in the 2017/18 period was higher than the start of the injury analysis period examined. In 2016/17, Liberty Steel did not expend any funds on R&D as a result of the losses incurred in that particular year. Liberty Steel's application does not outline the reasons for its reduced R&D expenditure in 2017/18, or detail what R&D activities were planned and what value to the company any planned R&D was intended to create.

Regarding the value of assets deployed, the Commission found that value of assets deployed for the production of rebar decreased year on year over the injury analysis period examined. The value of assets deployed at start of the injury analysis period examined coincided with levels of production and sales volumes which represented a four year low whereas in 2017/18 the opposite is the case. Taking this into consideration, the Commission is unclear why such a decline in assets deployed occurred at a time when production and sales were increasing. Liberty Steel's application does not explain in any detail whether the decline in assets is the result of a restructuring exercise, process improvements or a change in the accounting treatment of asset value.

It is unclear to the Commission at this stage as to whether any injury was incurred by Liberty Steel in relation to R&D and value of assets deployed. However further examination will be undertaken during the course of the investigation.

5.7.3 Reduced capacity utilisation

Liberty Steel's capacity utilisation rate in 2017/18 increased over the rate achieved at the outset of the injury analysis period examined. Liberty Steel's application attributes injury in the form a reduced capacity utilisation to the volume of goods it would have produced absent the dumped and subsidised goods from Turkey.

5.7.4 Increased stock levels of finished goods

Liberty Steel reported injury in the form of increasing closing stock levels of finished goods. The Commission's examination of the data in Liberty Steel's application found that closing stock levels had increased year on year since 2015/16. Closing stock levels in 2017/18 represented an 87 per cent increase over the levels reported for the prior year.

5.7.5 Reduced cash flow

Notwithstanding 2015/16, which exhibited positive cash flow, Liberty Steel experienced negative cash flow in every other year of the injury analysis period examined. Cash flow in 2016/17, the year in which there was almost no imports of rebar from Turkey, was the lowest. Cash flow in 2017/18 increased by 50 per cent over the year prior, however remained negative.

5.7.6 Lost revenue

Although Liberty Steel experienced the highest levels of revenue in 2017/18 compared to all other years in the injury analysis period examined, it has claimed that higher levels of revenue would have been realised absent of dumped and subsidised goods from Turkey.

5.7.7 The Commission's assessment – other injury factors

The Commission has considered the other injury factors outlined above and there appear to be reasonable grounds to support the claim that Liberty Steel has experienced injury with respect to:

- reduced ROI;
- reduced capacity utilisation;
- increased stock levels of finished goods;
- reduced cash flow; and
- lost revenue.

Whilst the Commission considers there appear to be reasonable ground in relation to the above, the Commission considers that for the purpose of this report, the basis of the claims relating to reduced investment in R&D and value of assets deployed is not currently supported.

These factors, together with other factors outlined above will be considered further during the course of the investigation.

5.8 Threat of material injury

Further to injury that has been realised, the applicant alleges that there is a threat of material injury to the Australian industry. Subsection 269TAE(2B), Articles 3.4 and 3.7 of the WTO Anti-Dumping Agreement and Article 15 of the SCM Agreement set out some of the factors that should be considered when making a determination of threat of material injury, including:²⁸

- a significant rate of increase of dumped/subsidised imports into the domestic market indicating the likelihood of substantially increased importation;
- sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped/subsidised exports to the market, taking into account the availability of any other export markets to absorb any additional exports;

²⁸ The Manual, p23.

- whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports;
- inventories of the product being investigated; and
- in subsidy cases only, the nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom.

To preliminarily assess the applicant's claim that the threat of material injury to the Australian industry, the Commission relied on the information provided by the Australian industry to support its claim and data from the ABF import database.²⁹

The Commission observed the following relating to the threat of material injury:

- as noted in section 5.5.3, imports from Turkey in the investigation period examined in this report, 1 July 2017 to 30 June 2018, represent a 10 fold increase over the previous 12 month period and the rate of increase one monthly average basis, was distinct; and
- the timing of the increase in imports corresponds to an increase in trade measures in the form of safeguards and higher import tariffs imposed on Turkish rebar exporters' other key markets, e.g. the US, Canada and the European Union. This may result in those exporters seeking new markets which have lower barriers to entry.

In relation to the other factors such as the price of imports from Turkey, Turkish exporter's production capacity and inventories of the goods being investigated, the Commission notes the following:

- notwithstanding that the price of rebar imported from Turkey was observed to be the lowest of the countries exporting to Australia in the investigation period examined, the Commission will need to make further inquiries as to whether this is a recent development or simply a continuation of the long term price trend for rebar from Turkey; and
- in the absence of data from Turkish exporters, the Commission is unable to fully evaluate the factors relating to production capacity and inventory levels at this stage.

The Commission has not drawn any conclusions regarding threat of material injury for the purpose of this report. The Commission will give consideration to threat of material injury during the investigation.

²⁹ Subsection 269TAE(2B).

6. Reasonable grounds – causation factors

6.1 Findings

Having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury caused by dumping and subsidisation, and that the injury is material.

6.2 Cause of injury to the Australian industry

6.2.1 Legislative framework

Under sections 269TG, 269TJ and 269TJA, one of the matters that the Minister must be satisfied of in order to publish a dumping duty and a countervailing duty notice is that the material injury experienced by the Australian industry was caused by dumping and subsidisation. This issue is considered in the following sections.

Matters that may be considered in determining whether the Australian industry has experienced material injury caused by dumped or subsidised goods are set out in section 269TAE.

6.2.2 Size of the dumping and subsidy margins

Under subsections 269TAE(1)(aa) and 269TAE(1)(ab), the Minister may have regard to the size of each of the dumping and subsidy margins in respect of the goods exported to Australia.

The dumping margin of 12.3 per cent outlined in section 3.5.2 for Turkey is not negligible. As outlined in section 4.5, the Commission also considers that the size of the countervailable subsidies received are above negligible levels. The Commissioner is satisfied that the dumping and subsidy margins, in and of themselves, are likely to enable importers of rebar to have a competitive advantage on price compared to the Australian industry.

6.3 The Applicant's claims

The table below summarises the causation claims of the applicant.

Injury caused by dumping and subsidisation
<p><u>Volume effects</u></p> <ul style="list-style-type: none"> Liberty Steel did not claim lost sales volumes as an injury factor, however it claims that the emergence of goods imported from Turkey has resulted in a loss of its market share from about the December 2017 quarter. <p><u>Price effects</u></p> <ul style="list-style-type: none"> The dumped and subsidised exports of rebar from Turkey have contributed to the price suppression experienced by Liberty Steel in 2017/18; and Price undercutting by imports from Turkey have prevented Liberty Steel from raising prices. <p><u>Profit effects</u></p> <ul style="list-style-type: none"> Inability to raise prices have in turn seen a decline in Liberty Steel's profit and profitability. <p><u>Other injury factors</u></p> <p>Liberty Steel claim in its application that:</p> <ul style="list-style-type: none"> the volume effects of dumped and subsidised imports from Turkey have caused injury in the form of reduced market share which has in turn caused injury in the form of: <ul style="list-style-type: none"> increased stock levels of finished goods; increased inventory holding costs; reduced available working capital; and reduced cash flow. the price effect of dumped and subsidised imports from Turkey have caused injury in the form of price suppression, reduced profits and reduced profitability which has in turn caused injury in the form of; <ul style="list-style-type: none"> reduced return on investment; reduced cash flow; and lost revenue.
Injury caused by other factors
<p>Liberty Steel's application does not include factors relating to injury caused by factors other than dumping and subsidisation.</p>

Table 11 –Summary of applicant's causation claims

6.4 The Commission's assessment

6.4.1 Volume effects

Whilst Liberty Steel does not appear to have experienced injury in terms of lost sales volume, it appears to have experienced injury in the form of loss of market share. The Commission preliminarily considers that the size of the market share previously held by Liberty Steel that has been displaced as a result of the volume of dumped and subsidised imports from Turkey is substantial enough to have impacted the Australian industry's prices and profit as outlined below.

6.4.2 Price effects

The Commission notes that the Australian market for rebar appears to have expanded over the injury analysis period examined. The Commission accepts that customers can purchase either from the Australian industry or from an import supply source. Import offers and movement in the price of import offers can therefore be used to negotiate prices with the Australian industry. Based on previous investigations, reviews and inquiries, the Commission established that the Australian market for rebar is price sensitive and that the Australian industry responds to the price of imports in order to remain price competitive.

In previous investigations, the Commission ascertained that DBIC may attract a price premium over DBIL. As a result, the following analysis examines trends for DBIL and DBIC separately.

Also, considering that the market share of rebar from Turkey in the two years prior to the investigation period examined in this report was less than 0.5 per cent, the Commission has analysed the duty inclusive weighted average FOB export prices, as obtained from the ABF import database, for the 12 month period to 30 June 2018. This period is considered relevant to the causation analysis on the basis that this period coincides with the 10 fold increase in the volume of rebar imported from Turkey since about mid 2017.

In relation to imports of DBIL, at Figure 7 below, the Commission observed the following:

- the export prices of DBIL from countries not the subject of anti-dumping measures generally increased in the second half of 2017 before levelling in the first half of 2018;
- the export prices of DBIL imported from Turkey was consistently the lowest;
- in the earlier stages of 2017/18, imports of DBIL from countries not subject to anti-dumping measures (excluding Turkey) were priced lower than duty inclusive export prices of rebar subject to measures. However by the start of 2018 export prices from countries not subject to anti-dumping measures increased to be comparable to the duty inclusive export price of DBIL from countries subject to anti-dumping measures. Further export price increases in mid 2018 resulted in prices from these countries being the highest.

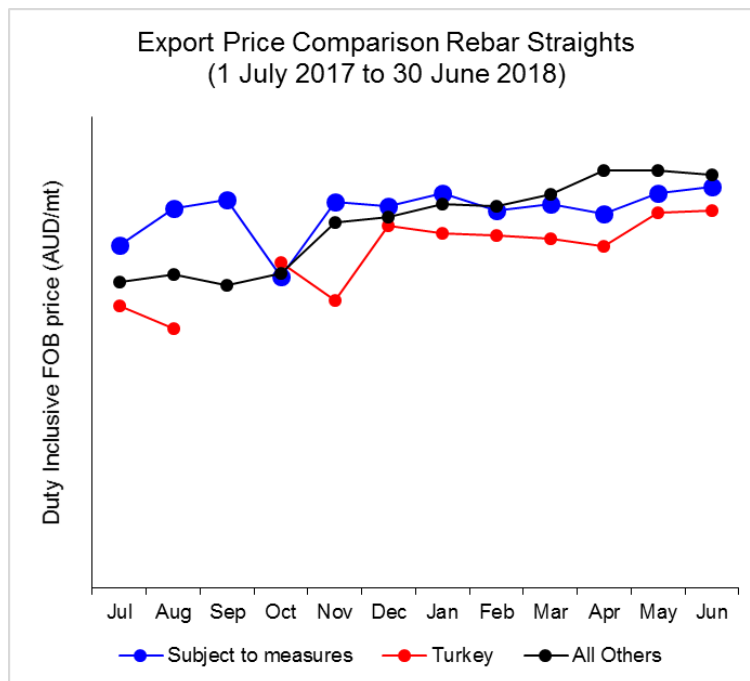


Figure 7 – Export Price of DBIL Imports³⁰

³⁰ Anti-dumping measures on imports from certain exporters from Spain and Taiwan, and all exporters from Indonesia, Greece and Thailand commenced on 8 March 2018.

In relation to imports of DBIC at Figure 8 below, the Commission observed the following:

- the export prices of DBIC were trending upwards;
- in periods where DBIC was imported from Turkey, the export price was generally comparable to or slightly below the export price of DBIC from all other countries; and
- the price of DBIC from countries subject to anti-dumping measures was comparable to DBIC from countries which are not subject to anti-dumping measures.

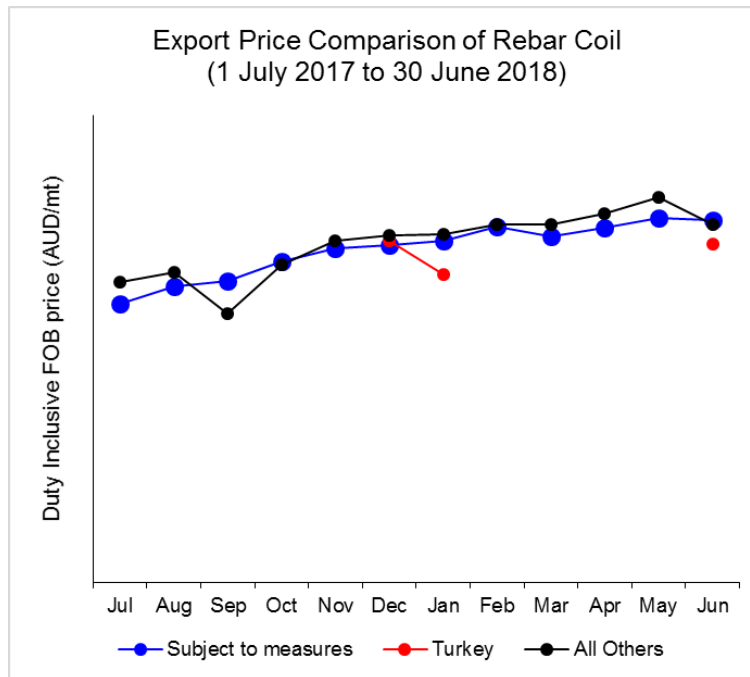


Figure 8 – Export Price of DBIC Imports³¹

The data relied on for the assessment of export prices is at **Confidential Attachment 8**.

6.4.3 Price undercutting

Price undercutting occurs when imported product is sold at a price below that of the Australian industry.

Liberty Steel provided market intelligence in the form of tabulated price offers relating to rebar exported to Australia to support its claim that it responded to the price undercutting brought about by dumped and subsidised imports from Turkey.

To substantiate Liberty Steel's claims of price undercutting and examples, the Commission compared Liberty Steel's free into store (FIS) selling prices to reasonable estimates of the FIS selling prices of imports from Turkey, other countries which are not subject to measures and the countries whose exports are subject to measures into the Australian market at free into store prices. The period examined covered 1 July 2017 to 30 June 2018.

³¹ Anti-dumping measures on imports from certain exporters from Spain and Taiwan, and all exporters from Indonesia, Greece and Thailand commenced on 8 March 2018.

To estimate the FIS prices, the Commission adjusted the FOB prices obtained from the ABF import database by adding verified post exportation and importation costs (e.g. ocean freight, marine insurance, customs duty (including dumping duties) and clearance charges, Australian inland transport etc.), SG&A expenses and amount for profit obtained from an importer who cooperated with Anti-Circumvention Inquiry No.452.

Consistent with the approach adopted to the analysis of export prices at 6.4.2, the Commission has carried out the price undercutting analysis having regard to sub-categories of rebar, e.g. DBIL and DBIC.

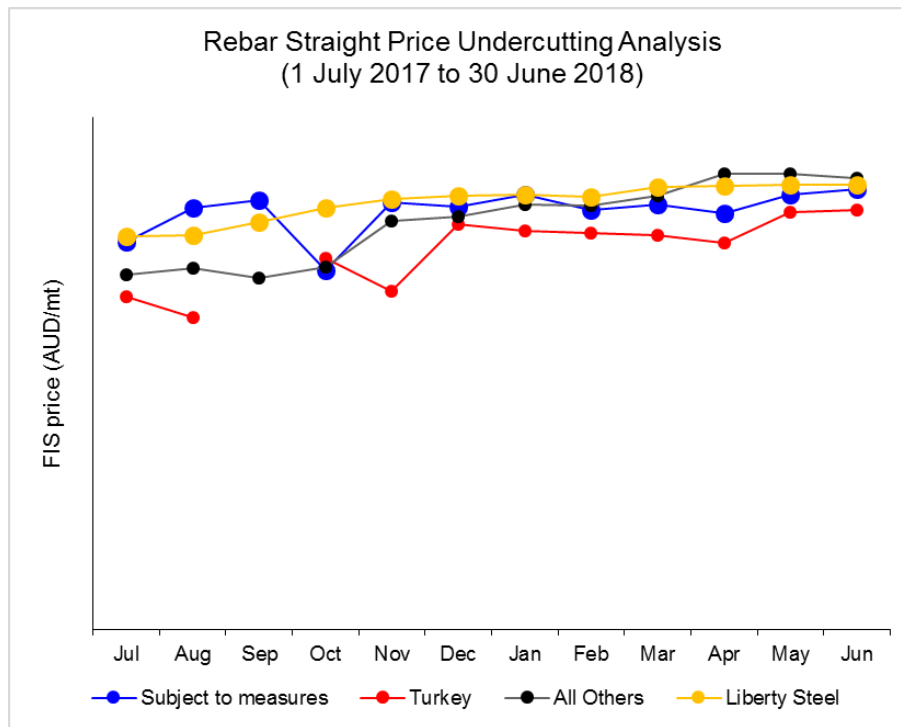


Figure 9 – DBIL FIS price undercutting analysis³²

³² Anti-dumping measures on imports from certain exporters from Spain and Taiwan, and all exporters from Indonesia, Greece and Thailand commenced on 8 March 2018.

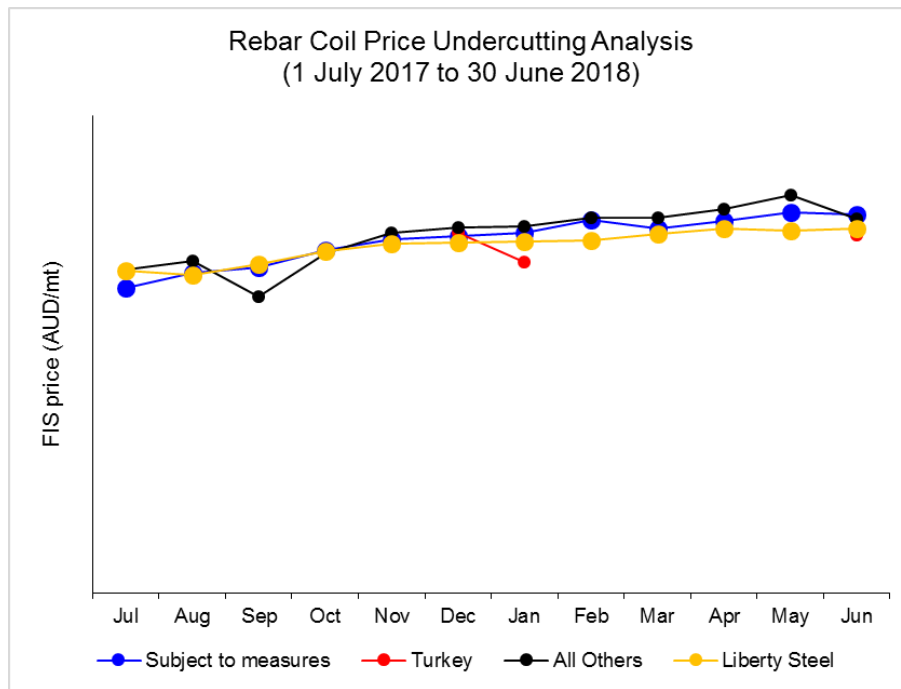


Figure 10 – DBIC price undercutting analysis³³

Referring to the charts above at Figures 9 and 10 above, the Commission observed the following:

- FIS prices of DBIL from Turkey consistently undercut the FIS prices of goods imported from all other countries as well as Liberty Steel's prices;
- for a large proportion of the period examined, the FIS price of DBIL from countries the subject to anti-dumping measures undercut Liberty Steel's FIS prices however the level of undercutting was relatively low compared to that observed in relation to exports from Turkey;
- FIS prices for DBIL from other countries (except Turkey) which are not the subject of anti-dumping measures for the majority of the period examined; and
- with regard to DBIC, Liberty Steel's FIS prices were in general, lower than the price of imported DBIC from all countries.

The Commission considers that there are reasonable grounds to establish evidence of price undercutting for the purposes of this report, however this will be further examined during the investigation.

The Commission's price undercutting analysis is at **Confidential Attachment 8**.

6.4.4 Profit and profitability effects

The Commission considers that there appear to be reasonable grounds to conclude that the estimated dumping margins, price effects and price undercutting observed in relation to imports of rebar from Turkey contributed to a profit result that was lower than what it would have been in the absence of dumped and subsidised goods imported from Turkey in the period examined.

³³ Anti-dumping measures on imports from certain exporters from Spain and Taiwan, and all exporters from Indonesia, Greece and Thailand commenced on 8 March 2018.

6.4.5 Injury caused by factors other than dumping and subsidisation

Liberty Steel's application did not attribute any of its injury to factors other than dumping and subsidisation from Turkey.

Notwithstanding, the Commission observes that Liberty Steel's alleged injury occurs at a time where the volume and market share of goods from other countries increased. Whilst the Commission found that the volume and market share of imports from Turkey have increased, in relative terms, this increase was off a very low base when compared to the prior year. The market share of rebar imported from other countries was greater than the market share secured by imports from Turkey in the investigation period examined for this report.

Liberty Steel's claim, that its injury has been caused by imports of dumped and subsidised goods from Turkey, centres on the proposition that in the absence of those imports, Liberty Steel would have been able to:

- achieve higher prices and profit;
- prevent the loss of revenue; and
- secure a higher market share.

The Commission will further assess the impact of goods from other countries during the course of the investigation.

6.5 Conclusion – material injury caused by dumping and subsidisation

The Commission considers that based on:

- an increase in market share relating to the import volume of steel reinforcing bar exported from Turkey;
- the size of the dumping margins;
- the likelihood that exporters from Turkey have benefited from countervailable subsidies; and
- the preliminary assessment of price undercutting,

there appear to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in relation to rebar exported to Australia from Turkey.

7. Attachments

Attachments	Confidentiality	Title
Attachment 1	Confidential	Australian market analysis
Attachment 2	Confidential	Liberty Steel estimate of export price
Attachment 3	Confidential	Commission's estimate of export price
Attachment 4	Confidential	Liberty Steel estimate of normal value
Attachment 5	Confidential	Dumping margin and assessment of import volume
Attachment 6	Non-confidential	Government of Turkey submission
Attachment 7	Confidential	Commission's assessment of price and profit injury
Attachment 8	Confidential	Commission's export price and price undercutting analysis

NON-CONFIDENTIAL ATTACHMENT 6

Government of Turkey Submission on countervailable
subsidies



**REPUBLIC OF TURKEY
MINISTRY OF TRADE
Directorate General of Exports**

**CONSULTATION TEXT OF TURKEY CONDUCTED UNDER ARTICLE 13 (1) OF
THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES, WITH
RESPECT TO THE COUNTERVAILING DUTY PETITION FOR STEEL
REINFORCING BAR IMPORTED FROM TURKEY**

First of all we would like to thank you on behalf of the Government of Turkey for giving us this opportunity to present our views and clarify certain points as regards the petition made by Liberty OneSteel (Newcastle) Pty Ltd.

Before we would like to make a few remarks regarding bilateral trade between Turkey and Australia as well as trade figures with respect to the steel reinforcing bar (rebar).

Bilateral trade between Turkey and the Australia was recorded as 2,7 billion dollars in 2017. Turkey exported 538 million dollars while Australia exported to Turkey 2,2 billion dollars. As such trade balance was in favour of Australia in 2017. Turkey has concerns that should Australia initiate an investigation this will have significant adverse effects on the bilateral trade to the detriment of Turkey.

According to TradeMap database, the share of Turkey in Australian total imports of rebar from the world is negligible for the last five years on 6 digit basis. Imports from Turkey corresponds to 0,01%, 0,08% and 0,19 % of total rebar imports of Australia from the world in the years 2015, 2016, 2017 respectively. In 2017, Turkey appears to be the 9th rebar supplier in Australia quantity-wise.

We would like to recall that according to Paragraph b of Article 27.10 of Agreement on Subsidies and Countervailing Measures, “*Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that: the volume of the subsidized imports represents less than 4 per cent of the total imports of the like product in the importing Member,...*”. We are aware that according to the domestic legislation of Australia, Turkey is considered as a developing country.

It is important to note that, Australian authorities terminated two anti-dumping investigations against Turkey's imports of "Steel Reinforcing Bar" and "Rod in Coils" in 2015, which was initiated by the request of the petitioner making allegations of subsidized import from Turkey this time. This is an indication that Turkish exports are fairly priced and the domestic industry is trying to seek ways to close the Australian market to fair competition.

Now we would like proceed with our remarks on the alleged programs mentioned in the compliant.

Subsidy allegation part of the petition is mainly established on the US countervailing duty proceeding against rebar imported from Turkey (rebar investigation). However, some of these programs examined in the investigations are repealed and do not exist anymore, some are not-used by Turkish steel reinforcing bar exporters to Australia at all, some were found to be are non-countervailable, and the rest was found to confer negligible benefits to the companies exporting rebar to Australia.

Inward Processing Regime (IPR):

IPR is a system allowing Turkish manufacturers/exporters to obtain raw materials, intermediate unfinished goods that are used in the production of the exported goods without paying customs duty including Value Added Tax and without being subject to commercial policy measures, if any. Turkey has a system in place to confirm which inputs, and in what amounts are consumed in the production of the exported products under Inward Processing Regime (IPR). Decisions on acceptance or rejection are based on whether a set of legal conditions and economic criteria are fulfilled. Companies are subject to heavy sanctions in case of noncompliance with the relevant IPR legislation.

The US Department of Commerce (USDOC) has repeatedly investigated, verified and found that Turkey's IPR is not countervailable.¹ In the US' rebar investigation a margin of 14% was calculated by the USDOC by resorting to a punitive adverse facts available alleging this program as discovered during the verification. Yet the respondent companies have fully co-operated during this mentioned investigation however they simply did not felt the necessity to report the usage of this exemption based on USDOC's repeated past findings of non-countervailability of the

¹ Decision Memorandum for Final Results of Countervailing Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey; 2015.

program. Likewise, USDOC continued to find this exemption non-countervailable on other subsequent subsidy investigation on “Carbon and Alloy Steel Wire Rod”².

Assistance to Offset Costs Related to Antidumping/CVD Investigations:

This assistance is provided by Exporter’s Associations, which gather their revenue entirely from members, which are private companies. Based on its budget, which is composed of its members’ contributions, it is up to the relevant exporters’ association’s discretion to accept or reject a member’s application to receive any assistance. GOT does not entrust or direct exporters’ associations to make financial contributions to their members. Moreover, in the 2014 Administrative Review of Steel Concrete Reinforcing Bar³ the Department determined that there is no financial contribution from the GOT to the respondent companies. The Department concluded that assistance to offset costs related to AD/CVD investigations by exporters’ associations is not a countervailable subsidy and stated that *“We thus preliminary determine that there is no financial contribution from the GOT to ... through the assistance that ... received from the TSEA. As such, we preliminarily conclude that assistance to offset costs related to AD/CVD investigations by the TSEA is not a countervailable subsidy under section 771(5) of the Act.”*

Natural Gas for Less than Adequate Remuneration:

There is no program as provision of natural gas for less than adequate remuneration. Until recently the reference made in the petitioners’ allegations to the US Department of Commerce erroneously relied on country-specific industrial natural gas prices published by the International Energy Agency (IEA) which consisted of the European countries’ gas prices even though there is no imports of natural gas from European countries into Turkey via pipeline. However, as it was explained in the Decision Memorandum for Final Results of Countervailing Duty 2015 Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey dated April 9, 2018 the Department stated that *“... evidence on the record of this review shows that, for imports of natural gas into Turkey, the requisite inflow pipeline connections are limited to Azerbaijan, Iran, and Russia. Consequently, we preliminarily determined that natural gas prices from the European countries that compose the IEA data would not be available to purchasers in Turkey via the existing pipelines...”* and finally the Department came to a conclusion with *“... Consequently, consistent with the Preliminary Results, we continue to find that no benefit was*

² Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Issues and Decision Memorandum for the Final Affirmative Determination, March 19, 2018.

³ Decision Memorandum for Preliminary Results of Countervailing Duty 2014 Administrative Review of Steel Concrete Reinforcing Bar from Turkey, December 5, 2016.

*provided by the GOT to ... during the POR through its purchases of natural gas from BOTAS.”*⁴. Similar decision was also taken by the USDOC in the Issues and Decision Memorandum for the Final Affirmative Determination on Countervailing Duty Investigation of Carbon Alloy Steel Wire Rod from the Republic of Turkey dated March 19, 2018. The Department again did not use the petitioners’ submission of the IEA’s benchmarks which were consisting of the European countries’ natural gas prices, instead the Department used the Russian Eurostat data for the calculation of natural gas benchmark prices and calculated less than 0.005 % subsidy margin for this program.

Deductions from Taxable Income for Export Revenue:

Under this program taxpayers may have an additional deduction of a lump sum amount from their gross income but this amount may not exceed 0.5 % of the proceeds they earned in foreign exchange. To calculate the benefit from this program, deducted amount of taxpayers’ earnings should be multiplied by the corporate tax rate. Taking into account the corporate tax rate in Turkey is 20 %, the maximum benefit from this program can only be 0.1 % ($20 \% * 0.5 \% = 0.1 \%$). Parallel with this USDOC calculated negligible rates for the companies in different proceedings⁵.

Rediscount Program:

Another program mentioned in the petition is Rediscount Program. In a recent US proceeding against Carbon and Alloy Steel Wire Rod from Turkey, Department again calculated less than 0,005 %⁶.

Investment Encouragement Program VAT and Import Duty Exemptions, Regional and Large-Scale Investment Schemes:

According to the Annex IV of the Decree No 2012/3305, the iron and steel products are excluded from all investment incentive schemes, with the exception of general investment scheme due to the obligations stemming from Free Trade Agreement between Turkey and European Coal and Steel Community (ECSC). Therefore the exporter companies do not hold regional and/or large-scale investment incentive certificates for their production of steel products, including rebar. On

⁴ Decision Memorandum for Final Results of Countervailing Duty 2015 Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey, April 9, 2018

⁵ Decision Memorandum for Final Results of Countervailing Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey; 2015

⁶ Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Issues and Decision Memorandum for the Final Affirmative Determination, March 19, 2018

the other hand, although entitled, none of the rebar exporting companies to Australia hold general investment incentive certificate as well.

Social Security Premium Support:

Another program mentioned in the petition is Social Security Premium Support. This program is established by the Law No. 6486 and within this incentive; employer's social security premium share (11%) is undertaken by the Treasury if these employers are operating in the provinces determined by the Council of Ministers. Companies exporting rebar to Australia did not benefit from the Social Security Premium Support under Law No. 6486 in the year 2017 and 2017 according to our examination.

Tax, Duty Land Benefits for Turkish Rebar Producers Located in Free Zones:

None of the companies exporting rebar to Australia operate in a Free Zone.

Turkish Development Bank Loans:

None of the companies exporting rebar to Australia benefitted from loans provided by Development Bank of Turkey in 2017 and 2018.

Purchase of lignite from Turkish Coal Enterprises (TKİ)

None of the companies exporting rebar to Australia have any purchases of lignite from Turkish Coal Enterprises (TKİ) in 2017 and 2018.

R&D Income Tax Deduction under Law No. 5746:

None of the companies exporting rebar to Australia benefitted from R&D Income Tax Deduction under Law No. 5746 in 2017 and 2018.

Terminated Programs:

Some of the alleged programs mentioned by the petitioners were terminated and are not in force anymore. Law No 5048 is provided in Exhibit. Relevant Articles with regard to termination, which are explained below are also highlighted in Exhibit for your convenience.

Energy support (Electricity for Less Than Adequate Remuneration): According to Article 7/h of Law No. 5084 the last date for an investment to benefit from this support program was December 31, 2012.

Provision of Land for Less Than Adequate Remuneration: The implementation of the program was initiated on February 6, 2004, and remained in force until the end of the validity period mentioned in paragraph 4, Provisional Article 1 of the Law No. 5084. Therefore, the program has not been in force since February 6, 2010.

Withholding of Income Tax in Wages and Salaries: Article 7/h of the Law No. 5084 states that this program shall be applicable for any new investments for 5 years for the ones completed by December 31, 2007, for 4 years for the ones completed by December 31, 2008 and for 3 years for the ones completed by December 31, 2009. Hence, the last date which the investment can benefit from this tax incentive program is December 31, 2012.

Employer's Share in Insurance Premiums Program: Article 7/h of the Law No. 5084 states that this program shall be applicable for any new investments for 5 years for the ones completed by December 31, 2007; for 4 years for the ones completed by December 31, 2008 and for 3 years for the ones completed by December 31, 2009. Hence, the last date, which the investment can benefit from this support program was December 31, 2012.

Thank you.

EXHIBIT 1

ABOLISHED LAW NO. 5084

**LAW CONCERNING INCENTIVES ON INVESTMENTS AND EMPLOYMENT
AND ON THE AMENDMENT
OF CERTAIN LAWS**

Law Number: 5084

Official Gazette: Date: February 6, 2004 Issue No.: 25365

Purpose

Article 1 – The purpose of this Law is to increase the investment and employment opportunities through implementing incentives for tax and insurance premium in various provinces, to provide energy subsidies and to provide lands and plots free of charge for investments.

Scope

Article 2 – (Amendment: 12/5/2005 – 5350/Art. 1)

This Law covers

a) in terms of tax and insurance premium incentives and energy subsidies the provinces where GDP per capita as determined by the State Institute of Statistics for 2001 is equal to or lower than USD 1,500.00 and other provinces where the index value based on the social-economic development ranking as determined by the State Planning Organization for 2003 is negative,

b) in terms of land and plot supply free of charge the provinces mentioned in subparagraph (a) and other provinces covered under the priority regions for development.

Income tax withholding incentive ⁽¹⁾

Article 3 – (Amendment: 12/5/2005 – 5350/Art. 2)

In order to be valid and applicable until 31/12/2009, in the provinces covered subparagraph (a) of Article 2;

a) The income tax calculated on the wages of the employees of the taxpayers of income and corporate tax starting business as of 1.4.2005 provided that they employ at least ten employees at the related business place, ⁽²⁾

b) (Amendment 28/3/2007-5615/Art. 24) on the wages of the employees actually working at the places of business of the taxpayers of income and corporate tax starting business before 1.4.2005 provided that they employ at least ten employees;

shall be cancelled in full for the business places located at organized industrial zones or regions, and eighty percent thereof shall be cancelled for business places in other locations and deducted from the tax accrued on the basis of the withholding tax return.

The total amount to be cancelled cannot exceed the sum determined on the basis of the above mentioned rates calculated on the value to be obtained by multiplying the number of employees and the income tax payable for the minimum wage.

The principles and procedures for the implementation of this article are set by the Ministry of Finance.

(1) Article 32 of Law No. 5838 dated 18/2/2009; the date "31.12.2008" in paragraph 1 of this article was amended as "31/12/2009" and entered in the text.

(2) Article 24 of Law No. 5615 dated 28/3/2007, the expression "thirty" stated in this subparagraph was amended as "ten" and entered in the text.

Incentive for employers' share in insurance premiums ⁽¹⁾⁽²⁾

Article 4 – (Amendment 12/5/2005 – 5350/Art. 3)

In order to be valid and applicable until 31/12/2012, in the provinces covered subparagraph (a) of Article 2;

a) The employers' share in insurance premiums calculated on the average daily earning taken as basic to premium in conformity with Article 72 and 73 of the Social Security Law No. 506 of the employees of the taxpayers of income and corporate tax starting business as of 1.4.2005 provided that they employ at least ten employees at the related business place, ⁽³⁾

b) (Amendment 28/3/2007-5615/Art. 24) of the employees actually working at the places of business of the taxpayers of income and corporate tax starting business before 1.4.2005 provided that they employ at least ten employees;

shall be met in full for the business places located at organized industrial zones or regions, and eighty percent thereof for business places in other locations by the Treasury.

The total amount to be met by the Treasury cannot exceed the sum determined on the basis of the above mentioned rates calculated on the value to be obtained by multiplying the number of employees and the employer's share based on the minimum daily earning taken as basic to premium fixed in conformity with Article 78 of the Social Security Law.

In order to be entitled to the payment of premiums of employers' share by the Treasury, the employers are required to submit monthly premium and service documents to the Institution within the statutory periods in conformity with the Social Security Law No. 506 and also affect the payments of the amounts corresponding to the

employees' share in the insurance premiums of all the insured and the employers' share unmet by the Treasury. In case of any late payment of the premiums required to be paid by the employer in conformity with this article, default interest to arise out of the late payments to be affected by the Treasury to the Institution shall be collected from the employer.

The principles and procedures related with the implementation of this article are jointly set by the Ministry of Finance, Ministry of Labor and Social Security and the Undersecretariat of Treasury.

(1) The title of this article "incentive for employers' share in insurance premiums" was amended as entered in the text through article 3 of Law No. 5350 dated 12/5/2005.

(2) Article 32 of Law No. 5838 dated 18/2/2009; the date "31.12.2008" in paragraph 1 of this article was amended as "31/12/2009" and entered in the text.

(3) Article 24 of Law No. 5615 dated 28/3/2007, the expression "thirty" stated in this subparagraph was amended as "ten" and entered in the text.

Allocation of investment sites free of charge

Article 5 - (Abolished: 18/2/2009-5838/Art. 32)

Energy subsidies ⁽¹⁾

Article 6 - (Amendment: 12/5/2005 - 5350/Art. 5)

(Unified first and second paragraphs amendment: 28/3/2007-5615/Art. 24) In order to be valid and applicable until 31/12/2009, twenty percent of the electric power expenses of the enterprises located in the provinces covered under subparagraph (a) of article 2 and starting business as of 1.4.2005 and employing at least ten employees and the enterprises starting business before 1.4.2005 and employing at least ten employees and actually and continuously dealing with livestock (including fishery and poultry husbandry), organic and biotechnological agriculture, cultivated mushroom husbandry and compost, greenhouse cultivation, certificated seed growing, and cold storage depot and manufacturing industry, mining, tourism rest stops, and education and health sectors shall be met by the Treasury. 0.5 point shall be added to the said rate for each number of employees exceeding the minimum requirement in enterprises starting business after 1.4.2005, and in enterprises starting business before 1.4.2005, for each number of employees starting to work after this date and exceeding the minimum requirement. The rate to be met by the Treasury cannot exceed fifty percent for the enterprises in the organized industrial sites or regions, and forty percent for enterprises active in other fields.

Monthly premium and service documents shall be the bases for the calculation of the number of employees actually and continuously working.

The Ministry of Industry and Commerce and the Undersecretariat of Treasury are jointly authorized to define the minimum capacities related with the implementation of

this article, and the Ministry of Finance, the Ministry of Energy and Natural Resources and the Undersecretariat of Treasury are jointly authorized to define the periods for the refunding of electric power expenses, whether the refunding will be affected in cash or on account and defining the procedures and principles of the implementation.

(1) Article 32 of Law No. 5838 dated 18/2/2009; the date "31.12.2008" in paragraph 1 of this article was amended as "31/12/2009" and entered in the text.

Miscellaneous provisions ⁽¹⁾

Article 7- In the implementation of this Law:

a) (Amendment: 12/5/2005 – 5350/Art. 6) The provisions of articles 3, 4 and 6 may not be applicable for the activities related with the realization of the services and construction works undertaken in conformity with the provisions of the State Bidding Law No. 2886 and the Public Procurement Law No. 4734 and the international agreements.

b) The related legislation provisions shall be applicable for the lands and plots allocated free of charge under the scope of the Law No. 4325 dated 21.1.1998 on Creating Employment and Investment Incentive in the Emergency Region and Priority Regions for Development, and the Law for the Amendment of Law No. 193 on Income Tax and the abolished article 8.

c) (Amendment: 12/5/2005 – 5350/Art. 6) Excluding the enterprises taken over after 1.10.2003 under privatization; transfer, merger, demerger or changes in type of corporations of the existing and active enterprises shall not be considered as starting a new business in terms of the implementation of articles 3, 4 and 6.

d) (Amendment: 12/5/2005 – 5350/Art. 6) If more than one monthly premium and service documents are issued for the business places in provinces covered hereunder, then the number of employees shall be considered as the total number of employees given in the payrolls of the enterprises active in the branch or industry related with the implementation of article 6. If any existing enterprise is closed and opened under a different name or title or another business unit, then the provisions of this Law shall not be applicable for such.

e) Any transaction which does not result with an additional capacity or employment increase but just undertaken for the purpose of benefiting from incentives like shifting employees among the companies with direct or indirect partnership relation and keeping the management and control thereof, and changing the ownership in single proprietorships shall not be entitled to the incentives granted by this Law.

f) The premium sums met by the Treasury in conformity with the provisions of article 4 cannot be considered as expenses or cost items in the enforcement of income and corporate tax; the electric power expenses met by the Treasury under article 6 shall be considered as income in terms of income or corporate tax assessments in the related refunding period.

g) The provisions of article 4 shall not be applicable for public enterprises.

h) (Supplementary: 16/7/2004 - 5228/Art. 55; Amendment: 26/12/2006 – 5568/Art. 5; Amendment: 05/02/2010 – 5921/Art. 10) The subsidies and incentives mentioned in articles 3, 4 and 6 of this Law shall be applicable for any new investments in any province subject to this Law, until 31/12/2012 for the ones completed by 31/12/2007 in terms of the implementation of article 4 exclusively, and applicable for 5 years for the ones completed by 31/12/2007, for 4 years for the ones completed by 31/12/2008 and for 3 years for the ones completed by 31/12/2009 regardless of the periods specified in the said articles.

i) (Supplementary: 12/5/2005 – 5350/Art. 6) The Ministry of Finance, the Ministry of Labor and Social Security, the Ministry of Industry and Commerce and the Undersecretariat of Treasury are jointly authorized to define the procedures and principles related with starting and completing any investment subject to this Law.

j) (Supplementary: 12/5/2005 – 5350/Art. 6) Any enterprise located in a province subject to this Law and benefiting from subsidies regulated hereby in conformity with other related regulations shall not be entitled to benefit also from the subsidies granted by this Law for the same period and repeatedly. Otherwise, considering the preferences of the enterprises, implementation shall be limited with just one subsidy.

(1) Article 32 of Law No. 5838 dated 18/2/2009; "until 31/12/2009 for any new investment in any province subject to this Law and completed by 31/12/2004" is added and entered in the text just before the date of "31/12/2007" in subparagraph (h) of this article.

Article 8-9- (It is related with Free Zones Law No. 3218 dated 6.6.1985 and entered in the related text).

Abolished provisions

Article 10- The last paragraph of article 14 of Law on Organized Industrial Zones No. 4562 dated 12.4.2000 and article 8 of Law No. 4325 dated 21.1.1998 are abolished.

Provisional Article 1- The non-allocated parcels in the organized industry zones located in the provinces subject to subparagraph (b) of article 2 of this Law and using credits made available by the Ministry of Industry and Commerce can be allocated to real or legal entities free of charge provided that the competent bodies of the organized industrial zone decide accordingly and the value of such parcels shall be deducted from the credit given to the organized industry zone by the Ministry of Industry and Commerce.

Payments for the parcels allocated against a value before the publishing date of the Law shall be withheld and the balance thereof shall be deducted from the credits. Deductions shall be made on the basis of sqm. prices to be determined annually for each organized industrial zone by the Ministry of Industry and Commerce after obtaining the favorable opinion of the Undersecretariat of Treasury.

Also parcels in the organized industrial zones which have not used any credit made available by the Ministry of Industry and Commerce, or honored its credit debt may be allocated provided that the competent bodies decide accordingly. In such cases, the values of the allocated parcels shall be paid by the Treasury to the legal entity of the organized industrial zone. Such payments shall be made on the basis of sqm. prices to

be determined annually for each organized industrial zone by the Ministry of Industry and Commerce after obtaining the favorable opinion of the Undersecretariat of Treasury.

The implementation related with the allocation of parcels in the organized industrial zones shall be valid for three years as of the date of entry into force of this Law. The said term can be extended up to maximum three years through a cabinet decree.

Employment, starting and completion period of investments, allocation and transfer transactions and other issues related with the implementation of this article shall be regulated by a regulation to be issued by a cabinet decree.

Temporary Article 2 – (Supplementary: 28/3/2007-5615/Art. 24)

Enterprises located in Gokceada and Bozcaada can also benefit from the subsidies and incentives specified in articles 3, 4 and 6 of this Law for a period of 5 years as of the publishing date of the Law provided that the requirements stipulated in the said articles are met.

Temporary Article 3 – (Supplementary: 18/2/2009-5838/Art. 30)

The provisions of the abolished article 5 shall be applicable for immovable applied for establishing free right of easement or occupancy permit but not concluded on the date of entry into force of this article. The said provisions shall be continued to be applied for immovable on which free right of easement is established or occupancy permit is granted under the abolished article 5.

Effective date

Article 11- The articles 3, 4 and 6 of this Law become effective at the beginning of the month following the publishing thereof, and other articles on the publishing date.

Execution

Article 12- The Cabinet executes the provisions of this Law.

**PROVISIONS WHICH CANNOT BE ENTERED INTO LAW NO. 5084 DATED
29/1/2004**

1- The provision of Law on Making Amendments on Law No. 5350 dated 12/5/2005 Concerning Incentives on Investments and Employment and for the Amendment of Certain Laws:

Temporary Article 1 – a) Taxpayers dealing in provinces subject to subparagraph (a) of article 2 of Law No. 5084 dated 29.1.2004 before amended by this Law and the taxpayers entitled to benefit from subsidies and incentives mentioned in articles 3 and 4 of Law No. 5084 before amended by this Law, shall continue to benefit exactly from the said rights. However, taxpayers meeting the required conditions and applying for such may benefit from the provisions of articles 3 and 4 of Law No. 5084 as amended by this Law.

b) Transactions related with immovable of which transfer thereof are requested free of charge by the investors in conformity with article 5 of Law No. 5084 before amended by this Law shall be carried on in accordance with the provisions of the aforementioned article.

c) The implementation related with the enterprises eligible to benefit from energy subsidies in conformity with article 6 of Law No. 5084 before amended by this Law shall be based on monthly premium and service documents and the provisions of the same article shall be continued to be applied regardless of the minimum employment requirement of 3/4 of a calendar year. However, the new provisions shall be applicable for enterprises newly starting business in provinces subject to subparagraph (a) of article 2 of Law No. 5084 before amended by this Law provided that the said enterprises meet the requirements stipulated in paragraph 1 of article 6 of Law No. 5084 as amended by this Law, and for enterprises which have started business related with the fields mentioned in paragraph 1 of article 6 of Law No. 5084 before 1.10.2003 provided that the number of employees declared in the last four-month insurance premium lists submitted to the related authority after the date of entry into force of this article but before 1.10.2003 meet actually and constantly the conditions specified in paragraph 2 of article 6 of Law No. 5084 as amended by this Law.