



**ANTI-DUMPING NOTICE NO. 2019/007**

**STEEL REINFORCING BAR**

**EXPORTED TO AUSTRALIA FROM**

**THE REPUBLIC OF TURKEY**

**INVESTIGATION NO. 495**

**PRELIMINARY AFFIRMATIVE DETERMINATION  
AND IMPOSITION OF SECURITIES**

*Public Notice under section 269TD of the Customs Act 1901<sup>1</sup>*

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<sup>1</sup> All legislative references in this document are to the *Customs Act 1901*, unless otherwise stated. This is a public notice under:

- subsection 269TD(4)(a) of the Commissioner's preliminary affirmative determination; and
- subsection 269TD(5) of the Commonwealth's decision to require and take securities.

# **1 INTRODUCTION**

## **1.1 Introduction**

The purpose of this notice is to set out the reasons why I, Dale Seymour, Commissioner of the Anti-Dumping Commission (the Commissioner) have made a preliminary affirmative determination (PAD) under subsection 269TD(1) on 15 January 2019, being not earlier than 60 days after the initiation of the investigation into the alleged dumping and subsidisation of certain steel reinforcing bar (rebar, or the goods) exported to Australia from the Republic of Turkey (Turkey).

My preliminary determination is:

- I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from Turkey, and that it is necessary to require and take securities in relation to exports from Turkey to prevent material injury to the Australian industry occurring while the investigation continues; and
- I am not satisfied that there appears to be sufficient grounds at this stage to make a PAD in relation to the alleged subsidisation of the goods exported to Australia from Turkey, as further analysis is required to adequately consider whether the goods have been exported to Australia from Turkey at subsidised prices.

This notice and the preliminary findings contained within reflect the current status of the investigation. My findings may change as a result of further information, submissions, analysis or verification.

## **1.2 Reasons for making a PAD and for taking of securities**

The Anti-Dumping Commission's (the Commission) preliminary assessment has shown that:

- exports of the goods to Australia from Turkey during the investigation period (1 October 2017 to 30 September 2018) were at dumped prices, and the dumping margin is not negligible;
- the volume of dumped goods exported to Australia from Turkey is not negligible (greater than three per cent of the total Australian import volume);
- the Australian industry producing like goods has experienced injury and that injury is material; and
- the material injury to Australian industry has been or is being caused by dumped exports of the goods to Australia from Turkey.

I am satisfied that, based on the analysis to date, the size of the dumping margin, and the price undercutting observed, there appears to be sufficient grounds to support a finding that material injury has been caused by goods exported to Australia from Turkey at dumped prices. Having regard to the application, submissions received and other information I considered relevant,<sup>2</sup> and pursuant to subsection 269TD(1)(a), I am satisfied there appears to be sufficient grounds for the publication of dumping duty notice in respect of the goods exported to Australia from Turkey. As a result, I have made a PAD to that

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<sup>2</sup> Refer to section 1.4 of this notice.

effect, pursuant to section 269TD.

Under subsection 269TD(4)(b), I am satisfied that it is necessary to require and take securities in relation to exports of the goods to Australia from Turkey to prevent material injury to the Australian industry occurring while the investigation continues. The Commonwealth will require and take securities under section 42 in respect of interim dumping duties that may become payable on the goods imported from Turkey and entered for home consumption in Australia on or after **16 January 2019**.

The security has been determined using the *ad valorem* duty method (refer Chapter 9 of this notice). The security rates are specified in section 9.1 of this notice (refer Table 2).

### **1.3 Background**

On 16 November 2018, I initiated an investigation into the alleged dumping and subsidisation of rebar exported to Australia from Turkey following an application lodged by Liberty OneSteel (Newcastle) Pty Ltd (Liberty Steel, the applicant).<sup>3</sup> Further details in relation to the initiation of this investigation can be found in Anti-Dumping Notice (ADN) No. 2018/175.<sup>4</sup>

Under subsection 269TD(1), I may make a PAD at any time, not earlier than 60 days after I initiate an investigation for the publication of a dumping or countervailing duty notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the initiation of such an investigation I must either make a PAD or publish a status report outlining the reasons why I have not made a PAD. Day 60 of this investigation is 15 January 2019.

### **1.4 Evidence relied upon**

In deciding to make a PAD in relation to the dumping investigation, I have, in accordance with subsection 269TD(2), had regard to:

- Liberty Steel's application;
- information from past investigations;
- importer questionnaire responses received from participating importers before 24 December 2018;<sup>5</sup>
- submissions received concerning publication of the dumping duty notice by

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<sup>3</sup> 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 in this PAD as the Australian industry for like goods.

<sup>4</sup> Refer to item no. 003 of electronic public record (EPR) no. 495, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

<sup>5</sup> The Commission received a response to the importer questionnaire from DITH Australia Pty Ltd and Thyssenkrupp Materials Australia Pty Ltd before 24 December 2018.

24 December 2018;<sup>6</sup>

- information obtained during verification visits to Liberty Steel;<sup>7</sup>
- data from the Australian Border Force (ABF) import database; and
- domestic selling price information in relation to Turkish rebar obtained via paid subscription.

## **1.5 Exporter questionnaire responses**

The Commission notes that it requested exporters to respond to an exporter questionnaire by 24 December 2018. No responses were received by the due date, however the following four exporters requested an extension of time to submit an exporter questionnaire response.

- Çolakoğlu Metalurji A.S. (Colakoglu);
- Kroman Çelik Sanayii A.S. (Kroman);
- Diler Diş Ticaret A.S. (Diler); and
- Habaş Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas).

These four exporters were granted an extension to provide the exporter questionnaire response by 14 January 2019.

All four exporters provided an exporter questionnaire response on 14 January 2019. Non-confidential versions of the exporter questionnaire responses will be placed on the public record in due course.

Pursuant to subsection 269TD(3), the Commissioner is not obliged to have regard to any submission received after day 37 of this investigation, if to do so would, in the Commissioner's opinion, prevent the timely consideration of the question whether or not to make a PAD. At the time of making this PAD, the Commission has not had sufficient time to assess the exporter questionnaire responses. In my opinion, having regard to the exporter questionnaire responses would prevent the timely consideration of whether to make a PAD.

Accordingly, I have not had regard to the exporter questionnaire responses in making this PAD. The exporter questionnaire responses will be considered further as the investigation continues.<sup>8</sup>

## **1.6 The goods the subject of the investigation**

The goods the subject of the application (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.*

*Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.*

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<sup>6</sup> To date, no submissions other than those discussed at section 1.5 were received after 24 December 2018.

<sup>7</sup> The Commission has conducted verification visits to Liberty Steel's Newcastle and Melbourne offices. A verification report will be published in due course.

<sup>8</sup> Further information about exporter questionnaire responses can be found at item no. 006 of EPR No. 495.

Further information regarding the goods the subject of the investigation can be found in *Consideration Report No. 495* (CON 495) and ADN No. 2018/175.<sup>9</sup>

## **1.7 Australian industry**

### **1.7.1 Like goods**

An application can only be made if there exists an Australian industry producing 'like goods' to the goods the subject of the application. Like goods are defined under subsection 269T(1). Subsections 269T(2), 269T(3), 269T(4), 269T(4A), 269T(4B) and 269T(4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.

Following initiation of the investigation, the Commission undertook an inspection of Liberty Steel's manufacturing facilities and is satisfied that at least one substantial process of manufacture of the goods is carried out in Australia.

The Commission has also preliminarily assessed that the locally produced goods closely resemble the goods the subject of the application and are like goods given that:

- the primary physical characteristics of the imported and locally produced goods are almost identical;
- the imported and locally produced goods are commercially alike as they are sold to common customers and compete in the same market;
- the imported and locally produced goods are functionally alike as they have the same end-uses; and
- the imported and locally produced goods are manufactured in a similar manner.

### **1.7.2 Australian industry producing like goods – preliminary assessment**

As a result of the information verified during the verification visits to Liberty Steel, I am satisfied that there is an Australian industry producing like goods to the goods the subject of the application, comprised of Liberty Steel and related party producers, and that the like goods are produced in Australia.

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<sup>9</sup> Refer to item nos. 002 and 003 of EPR 495.

## 2 THE AUSTRALIAN REBAR MARKET

### 2.1 Demand

Rebar is used as a tension device to reinforce concrete as well as prefabricated and precast structures. Demand for rebar is Australia-wide with the majority demanded from the eastern states of Queensland, New South Wales and Victoria. Demand is driven by downstream activity in several market segments:

- residential construction, including swimming pool construction;
- non-residential construction; and
- engineering construction/infrastructure, including mining infrastructure.

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

### 2.2 Market size

Figure 1 depicts the Commission’s estimate of the size of the Australian market for rebar for the injury analysis period (1 October 2014 to 31 October 2018).<sup>10</sup> Figure 1 is based on the verified sales data from Liberty Steel and data from the ABF import database.

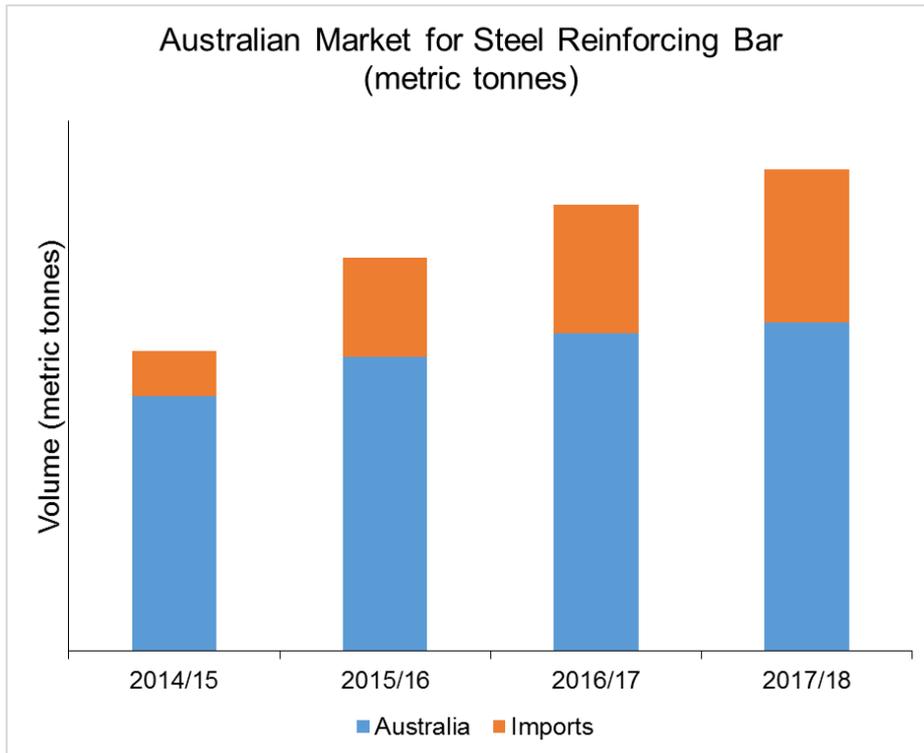


Figure 1 – Size of the Australian market for rebar<sup>11</sup>

<sup>10</sup> All years in Figure 1, and subsequent figures, align with the investigation period, e.g. years spanning 1 October to 30 September, unless otherwise stated.

<sup>11</sup> Confidential Attachment 1 – Worksheet 1 – Table 1.2.

## **PUBLIC RECORD**

The Commission observes that the Australian market for rebar increased over the injury analysis period. The rate of increase in the investigation period was marginally less than that observed in prior years. In assessing the size of the Australian market, the Commission notes that the market for rebar consists of two product sub-categories, rebar in straight form (DBIL) and rebar in coil form (DBIC). For the purpose of this report, the Commission has aggregated both product categories for estimating the size of the Australian market.

### 3 DUMPING INVESTIGATION

#### 3.1 Exporter questionnaires received

As outlined at section 1.5, the Commission did not receive any fully completed exporter questionnaire responses by the due date of 24 December 2018. The Commissioner granted four exporters an extension until 14 January 2019 in which to submit an exporter questionnaire response. Each of these exporters submitted an exporter questionnaire response by the revised due date.

At the time of making this PAD, the Commission has not had sufficient time in which to consider the exporter questionnaire responses. The Commission will review the questionnaire responses as the investigation continues.

#### 3.2 Exporters that did not provide an exporter questionnaire response or request an extension

Having regard to the *Customs (Extension of Time and Non-cooperation) Direction 2015* (the Customs Direction), in relation to this investigation, the legislated period for providing an exporter questionnaire response has expired. Therefore, under subsection 8(b) of the Customs Direction, I must determine all exporters who did not provide a response or request a longer period to provide a response within the legislated period to be uncooperative exporters pursuant to subsection 269T(1).

#### 3.3 Export price

The export price of the goods exported to Australia from Turkey was determined under subsection 269TAB(3), having regard to all relevant information.<sup>12</sup> Specifically, the Commission has had regard to information obtained from the ABF import database to calculate export prices at the Free on Board (FOB) level. Using the information from the ABF import database, the Commission was able to calculate export prices for DBIL and DBIC separately.

The Commission's export price calculation is at **Confidential Attachment 2**.

#### 3.4 Normal value

The normal value was determined in accordance with subsection 269TAC(6), having regard to all relevant information.<sup>13</sup> The Commission's approach to the calculation of normal value largely follows that which is outlined in CON 495.

##### DBIL

In relation to DBIL, the Commission has had regard to domestic selling price information provided by Liberty Steel in relation to Turkish rebar obtained via paid subscription.

These prices for DBIL are based on 12 mm diameter rebar produced to conform to the ASTM A615/A615M, BS4449 or equivalent standards at ex-works (EXW) delivery terms.<sup>14</sup>

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<sup>12</sup> Given that the exporter questionnaire responses have not been taken into consideration for the purposes of this PAD, the Commission is unable to determine the export price under the preceding subsections.

<sup>13</sup> Given that the exporter questionnaire responses have not been taken into consideration for the purposes of this PAD, the Commission is unable to determine the normal value under the preceding subsections.

<sup>14</sup> In Liberty Steel's application it advised that the latest revision of the BS4449 standard incorporates steel

## PUBLIC RECORD

The Commission examined this data and notes the following:

- the prices relate to a specification of DBIL that is comparable to exports to Australia;
- the prices are exclusive of Value Added Tax;
- the prices appear reliable and are comparable to domestic selling price information it obtained from another paid subscription service; and
- prices are set on an actual weight basis and can be compared to export price data from the ABF import database.

### DBIC

In relation to DBIC, the Commission has had regard to information provided by Liberty Steel in estimating an EXW price of DBIC based on a construction of a Turkish steel mill's costs to make, selling, general and administrative (SG&A) costs and profit sourced via paid subscription.

The Commission has examined this data and notes the following:

- the cost to make data relates to production costs converted to US dollars for a known Turkish producer of billet and wire rod;<sup>15</sup>
- the cost to make data is 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 which was obtained through paid subscription. The Commission found that these SG&A expenses were incomplete and the Commission has replaced these with verified SG&A expenses for an exporter of rebar from Turkey who cooperated with Investigation No. 264; and
- the amount for profit was observed to be based on the Turkish producer's 2017 net profit margin.

### Adjustments to normal value for both DBIL and DBIC

To determine a normal value at the FOB level, the Commission 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.

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.

In relation to the adjustments applied to the EXW prices discussed above, information received in questionnaire responses from participating importers confirm that rebar from Turkey is containerised. The Commission therefore considers that the adjustments estimated by Liberty Steel would reasonably reflect the mode of shipping and likely export related costs incurred by exporters from Turkey.

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with yield strength that is equivalent to the grade of rebar exported to Australia.

<sup>15</sup> In relation to DBIC, the applicant advised that reliable and complete price information was not available. The applicant therefore provided wire rod cost of production data obtained for Turkish steel mills which it considered representative of DBIC production costs on the basis that such steel mills produce both wire rod and DBIC. For the purpose of this PAD the Commission considers the applicant's wire rod production costs are an appropriate substitute for DBIC production costs.

Assessment – normal value

I am satisfied that the data relied on to determine prices for DBIL and DBIC are a reliable basis on which to calculate the normal values achieved by Turkish producers of rebar in the domestic market on the basis that:

- the price 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.

The Commission’s normal value calculation is at **Confidential Attachment 3**.

**3.5 Dumping margin**

A dumping margin was calculated by comparing the weighted average export price over the whole of the investigation period with the weighted average corresponding normal value over the whole of that period, in accordance with subsections 269TACB(2)(a) and 269TACB(4).

The Commission has preliminarily determined the following dumping margin in relation to rebar exported to Australia from Turkey during the investigation period.

<b>Exporter</b>	<b>Dumping margin</b>
All exporters	4.0%

**Table 1 – Preliminary dumping margin**

Noting the dumping margin presented in Table 1, I am satisfied that the goods exported to Australia from Turkey during the investigation period were at dumped prices because:

- the dumping margin was not negligible;<sup>16</sup> and
- the volume of dumped goods from Turkey was not negligible.<sup>17</sup>

The Commission’s dumping margin calculation is at **Confidential Attachment 4**.

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<sup>16</sup> Subsection 269TDA(1).

<sup>17</sup> Subsections 269TDA(3) and (4).

## **4 COUNTERVAILING INVESTIGATION**

At the time of making this report, further analysis is required to adequately consider whether the goods have been exported to Australia from Turkey at subsidised prices.

It is noted that the Commission sought information regarding subsidies from exporters and the Government of Turkey through questionnaires. In addition to extensions granted to exporters (as detailed in chapter 3), the Commissioner has granted the Government of Turkey an extension of 31 days to submit a response to the government questionnaire. The revised due date is 24 January 2019.

The Commission will analyse the responses of exporters and the Government of Turkey further as the investigation continues.

## 5 INJURY TO THE AUSTRALIAN INDUSTRY

### 5.1 Application

In the application, Liberty Steel claimed 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.

### 5.2 Approach to injury and causation analysis

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).<sup>18</sup>

The Commission's analysis below examines the Australian industry's sales of rebar on an aggregated basis. As outlined previously, the Australian industry is comprised of Liberty Steel and two related party producers. This chapter analyses the consolidated economic performance of the Australian industry as a whole. The Commission utilised the verified data of the Australian industry and data obtained from the ABF import database to perform volume, price and profitability analysis for the injury analysis period and investigation period. All graphs in the chapter are for years ending 30 September.

The Commission notes that dumping from countries other than Turkey has impacted the Australian industry's economic performance in earlier years of the injury analysis period. For example, in November 2017, preliminary measures were imposed against exporters from Greece, Indonesia (excluding PT Ispat Panca Putera and Pt Pura Baja Deli), Spain (Nervacero S.A. only), Taiwan (Power Steel Co., Ltd only) and Thailand. Final measures were imposed in March 2018. These measures followed Investigation No. 418, which examined an investigation period of 1 April 2016 to 31 March 2017. The existence of such events throughout the injury analysis period can make it difficult for the Commission to assess the materiality of injury using a 'coincidence analysis'.

The Commission's *Dumping and Subsidy Manual* (the Manual)<sup>19</sup>, states that where a 'coincidence analysis' is not possible, the Commission may undertake an alternate analytical method, such as a 'but for' analysis (or counterfactual) when examining causal effects. Under a 'but for' analysis it may be possible to compare the current state of the Australian industry to the state that the Australian industry would likely have been in if there had been no dumping and/or subsidisation.

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<sup>18</sup> *Ministerial Direction on Material Injury 2012*, 27 April 2012, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

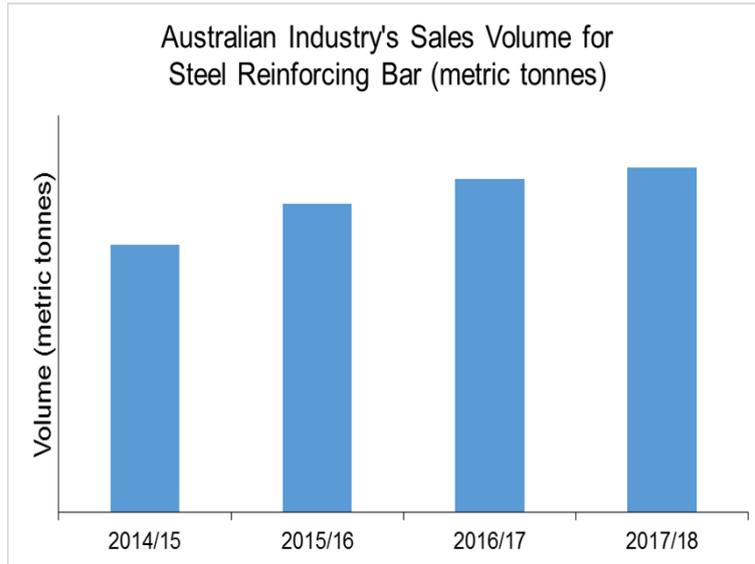
<sup>19</sup> *Dumping and Subsidy Manual*, page 128, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

Noting the above, the Commission has had regard to the existence of the dumped goods from other countries in the injury analysis period and the effect of existing measures in the context of assessing Liberty Steel’s claims regarding the injury effects caused by the emergence of Turkish imports in chapters 5 and 6.

### **5.3 Volume injury**

#### **5.3.1 Sales volume**

Figure 2 depicts the Australian industry’s domestic sales volume of rebar for the injury analysis period.



**Figure 2 – Australian industry’s domestic sales volume of rebar<sup>20</sup>**

Figure 2 shows that the Australian industry’s domestic sales volume increased in each year of the injury analysis period. In its application, Liberty Steel did not claim injury in the form of lost sales volume. Based on Figure 2, the Australian industry does not appear to have experienced injury in the form of lost sales volumes.

#### **5.3.2 Market share**

Figure 3 depicts the Australian market share of rebar for the injury analysis period.

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<sup>20</sup> Confidential Attachment 1 – Worksheet 1 – Table 1.2.

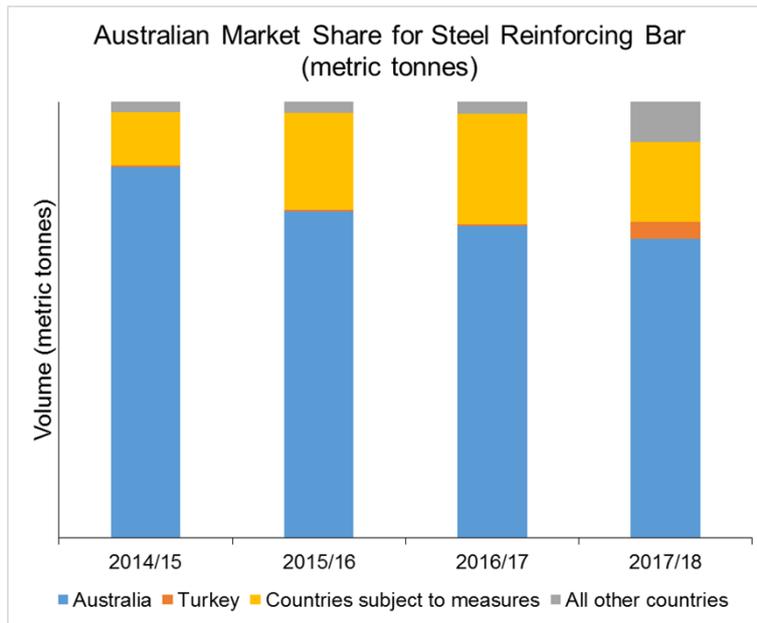


Figure 3 – Australian market shares for rebar<sup>21</sup>

Figure 3 shows that the Australian industry experienced a decline in market share for each year of the injury analysis period. The Australian industry’s market share was at its lowest in the investigation period.

The market share of imports from Turkey was immaterial in the years between 2014/15 to 2016/17, at less than one per cent. However, the market share of imports from Turkey increased substantially in the investigation period, albeit from a low base.

Over the injury analysis period, the market share of imports from countries not subject to anti-dumping measures almost doubled, with a noticeable increase in the investigation period. In contrast, the market share of imports from countries subject to anti-dumping measures reduced in the investigation period, having increased in the three years prior.

Based on the above, there appears to be sufficient grounds to support the Australian industry’s claim that it has experienced injury in the form of reduced market share.

The Commission’s analysis of the size and market share of the Australian market for rebar is in **Confidential Attachment 1**.

### 5.4 Price effects

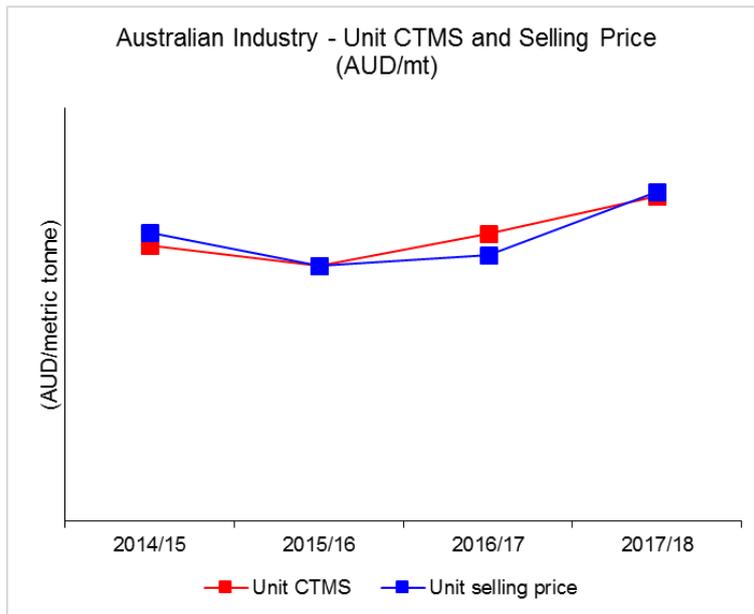
Price depression occurs when a company, for some reason, lowers its prices.

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

In its application, Liberty Steel claimed that the Australian industry has experienced price suppression, but not price depression.

Figure 4 shows the movement in Liberty Steel’s unit cost to make and sell (CTMS) and unit selling prices over the injury analysis period.

<sup>21</sup> Confidential Attachment 1 – Worksheet 2.



**Figure 4 – Australian industry unit CTMS and unit selling prices<sup>22</sup>**

Figure 4 shows that, in relation to the Australian industry:

- unit selling prices 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;
- unit CTMS increased steadily from 2015/16; and
- with the exception of the 2016/17 period, unit selling prices exceeded unit CTMS by a small margin.

The Commission considers that the Australian industry’s unit selling prices would likely have been higher during the investigation period, had it not have been for the existence of lower priced imports which have prevented the Australian industry from increasing prices in response to rising costs. It is reasonable to conclude that the Australian industry could have expected a better recovery following the imposition of measures from Investigation No. 418, which ought to have resulted in higher prices in relation to imports from Greece, Indonesia, Spain, Taiwan and Thailand. For example, the Australian industry was unable to achieve the same margin between unit CTMS and unit selling prices in the investigation period that it was able to achieve in an earlier year of the injury analysis period, being 2014/15.

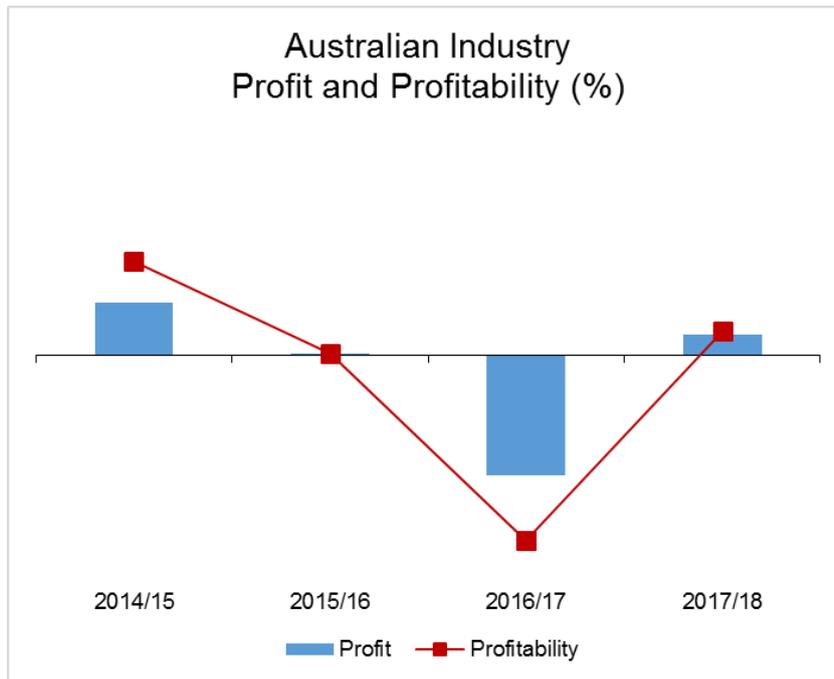
Based on the above, I consider that there appears to be sufficient grounds to support that the Australian industry has experienced injury in the form of price suppression. The Commission’s price injury analysis is available at **Confidential Attachment 5**.

### **5.5 Profit and profitability effects**

Figures 5 shows the Australian industry’s total profit and unit profitability over the injury analysis period.

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<sup>22</sup> Confidential Attachment 5 – Worksheet 1.



**Figure 5 – Australian industry total profit and profitability<sup>23</sup>**

Figure 5 shows that the total profit and profitability reported in 2014/15 was the highest of the injury analysis period before decreasing in 2015/16 and 2016/17. The Australian industry’s sales of rebar returned to profitability in the investigation period after incurring losses in 2016/17.

The Commission considers that the Australian industry’s total profit and profitability would likely have been higher during the investigation period, had it been able to increase prices in response to rising costs. It is reasonable to conclude that the Australian industry could have expected a better profitability following the imposition of measures from Investigation No. 418. For example, the Australian industry was unable to achieve the profitability in the investigation period that it was able to achieve in an earlier year of the injury analysis period, being 2014/15.

Based on the above, there appears to be sufficient grounds to support that the Australian industry has experienced injury in the form of reduced profits and reduced profitability.

The Commission’s profit injury analysis is available at **Confidential Attachment 5**.

### **5.6 Other economic factors**

Liberty Steel’s application claimed injury in the form of the following ‘other economic factors’:

- reduced return on investment (ROI);
- reduced investment in research and development and value of assets deployed;
- reduced capacity utilisation;
- increased stock levels of finished goods;
- reduced cash flow; and

<sup>23</sup> Confidential Attachment 5 – Worksheet 1.

- lost revenue.

In CON 495 the Commission considered that there appeared to be reasonable grounds to support Liberty Steel's claim that it experienced injury in the form of:

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

The basis of Liberty Steel's claims relating to these other economic factors requires further investigation. For the purposes of this report, the Commission has not concluded whether there appears to be sufficient grounds to support the claim that the Australian industry has experienced injury in relation to these other economic factors.

## 6 CAUSE OF INJURY TO THE AUSTRALIAN INDUSTRY

### 6.1 Legislative background

In determining whether material injury to an Australian industry has been caused or is being caused, because of any circumstances in relation to the exportation of the goods to Australia, the Minister may have regard to the matters set out in section 269TAE, to which I have had regard.

### 6.2 Size of the dumping margin

Subsection 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The preliminary dumping margin outlined in section 3.5 of this report (refer Table 1) is 4.0 per cent and is above a negligible level (i.e. above two per cent).

The Commission considers that the magnitude of dumping provided exporters with the ability to offer rebar to importers at lower prices than would otherwise have been the case, in a price sensitive market.

### 6.3 Volume effects

As noted in section 2.2, the Australian market has grown over the injury analysis period. Section 5.3 demonstrates that the Australian industry has increased its sales volumes in the same period. Injury to an Australian industry is still possible where the industry is expanding and the importation of dumped and/or subsidised goods has slowed the rate of industry growth without causing that industry to contract.

The evidence provided and analysis performed to date indicates that, while the Australian industry does not appear to have suffered injury with respect to lost sales volume during the investigation period, there appears to be sufficient grounds to conclude that the Australian industry suffered injury in the form of reduced market share. The Australian industry's reduced market share has coincided with an increase in dumped imports from Turkey.

This is demonstrated in Figure 3 which shows that the Australian industry has been unable to maintain its previous levels of market share in the investigation period. It is noted that, immediately prior to the investigation period, preliminary measures were imposed during Investigation No. 418. These measures which became final in March 2018 have seen a reduction in the import volumes held by exporters from Greece, Indonesia, Spain, Taiwan and Thailand. In contrast, the market share of imports from Turkey increased substantially in the investigation period and displaced market share previously held by the Australian industry and countries subject to measures.

It is further noted that the rate of Turkish imports is increasing with Turkish imports accounting for approximately 12 per cent of the total Australian imports and approximately four per cent of the total Australian market during the investigation period. The Commission considers that the volume of Turkish imports alone are of a magnitude significant enough to have caused material injury to the Australian industry. The impact of imports from other countries may also have contributed to the Australian industry's loss of market share. This will be further analysed as the investigation continues.

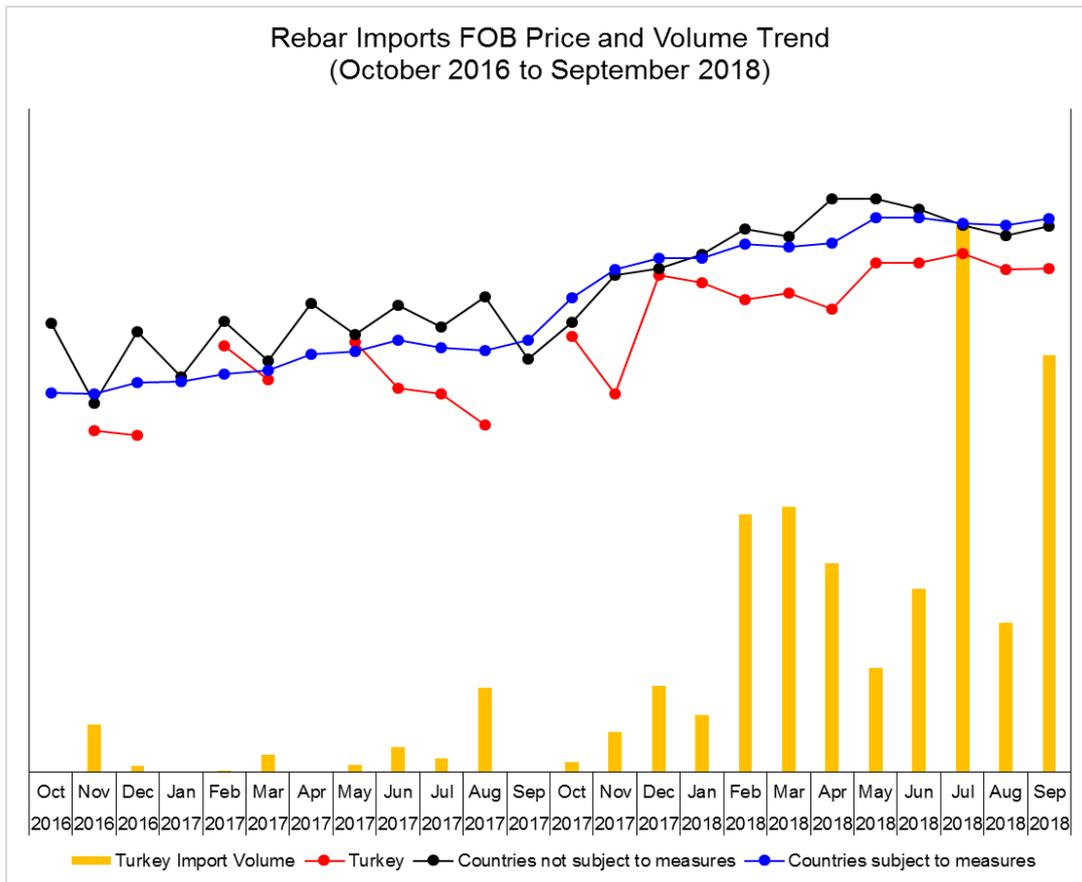
### 6.4 Price effects

The Commission notes that customers can purchase rebar from the Australian industry or imported sources. Import offers and movements in the price of imports can therefore be used by customers to negotiate prices with the Australian industry. Liberty Steel has also claimed that prices in the Australian rebar market generally settle at or near the lowest offers in the market.

Previous investigations into rebar have established that the Australian market for rebar is price sensitive and that price is a major consideration in customer’s purchasing decisions.<sup>24</sup> This investigation to date has confirmed that price sensitivity remains in the market.

The Australian industry has demonstrated that it responds to lower priced imports, including those from Turkey in order to remain price competitive. During verification visits to Liberty Steel, evidence was provided that Turkish import prices were a consideration in Liberty Steel’s price setting practices.

Figure 6 shows that upon entering the Australian market in larger volumes during the investigation period, particularly from February 2018 onwards, the price of rebar from Turkey has consistently been the lowest.



<sup>24</sup> Refer to *Anti-Dumping Commission Report No. 264* at page 84, *Anti-Dumping Commission Report No. 300* at page 11 and *Anti-Dumping Commission Report No. 418* at page 99. These reports are available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

**Figure 6 – Rebar import price trend<sup>25</sup>**

At section 5.4 I considered that there appears to be sufficient grounds to support that the Australian industry has experienced injury in the form of price suppression. Based on evidence provided on how prices are set in the Australian market, I am satisfied that there is a causal link between the lower prices of the dumped imports from Turkey, illustrated by Figure 6, and the price suppression injury experienced by the Australian industry.

## **6.5 Price undercutting**

For the purposes of the PAD, the Commission has undertaken a preliminary analysis of the price undercutting claims by Liberty Steel. The analysis was based on verified sales data from the Australian industry, unverified importer questionnaire responses and data from the ABF import database. A price undercutting analysis has been undertaken for each type of rebar product sold in the Australian market, being DBIL and DBIC.

The Commission compared the Australian industry's Free into Store (FIS) price to the FIS price achieved by importers of rebar from Turkey. The Commission also analysed prices for rebar imported from other countries currently subject to anti-dumping measures and countries which are not subject to anti-dumping measures.

FIS prices for imports from countries other than Turkey were calculated using FOB prices from the ABF import database and adding an "FOB to FIS margin" which included ocean freight, marine insurance, Australian importation costs, importer's SG&A costs and profit margin. The FOB to FIS margin was determined using the data provided in importer questionnaire responses in relation to exports from Turkey.

The Commission's price undercutting analysis at Figure 7 demonstrates that the price of DBIL from Turkey has consistently undercut all other suppliers of DBIL in the Australian market. The analysis also shows that rebar from Turkey undercut the Australian industry's DBIL prices by approximately 7 per cent on a weighted average basis over the whole investigation period.

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<sup>25</sup> Confidential Attachment 1 – Worksheet 8 Table 8.3.

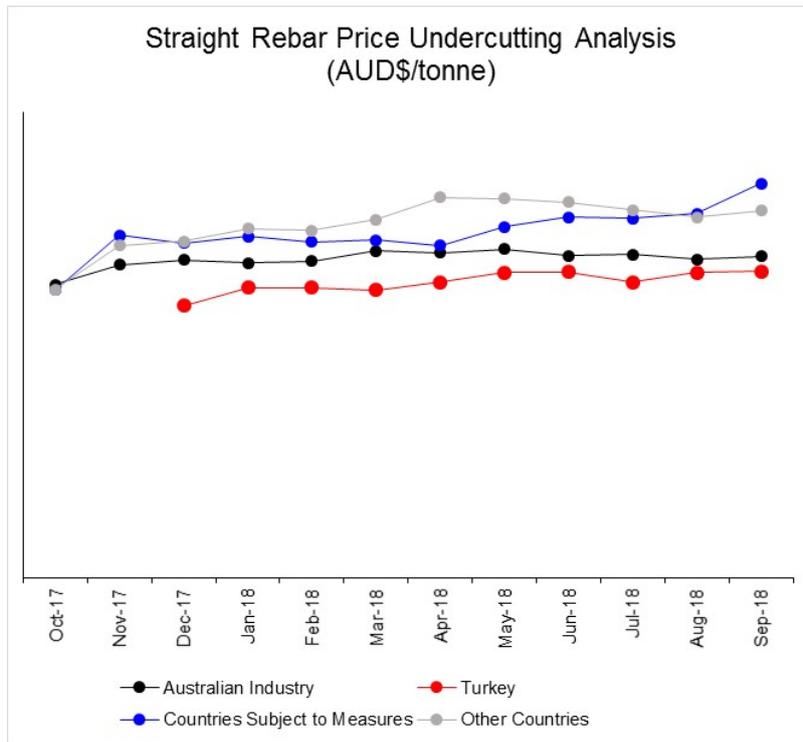


Figure 7 – DBIL price undercutting analysis<sup>26</sup>

Price undercutting relating to DBIC is less conclusive as the volume of DBIC from Turkey is much lower than DBIL and imports of DBIC from Turkey occurred infrequently in the investigation period.

As shown in Figure 8, the Australian industry DBIC prices are similar to the price of DBIC imported from Turkey. Despite limitations with the data for DBIC from Turkey, DBIC from Turkey undercut DBIC sourced from all other countries.

<sup>26</sup> Confidential Attachment 6 – Worksheet ‘Price Undercutting Analysis - Table 1’

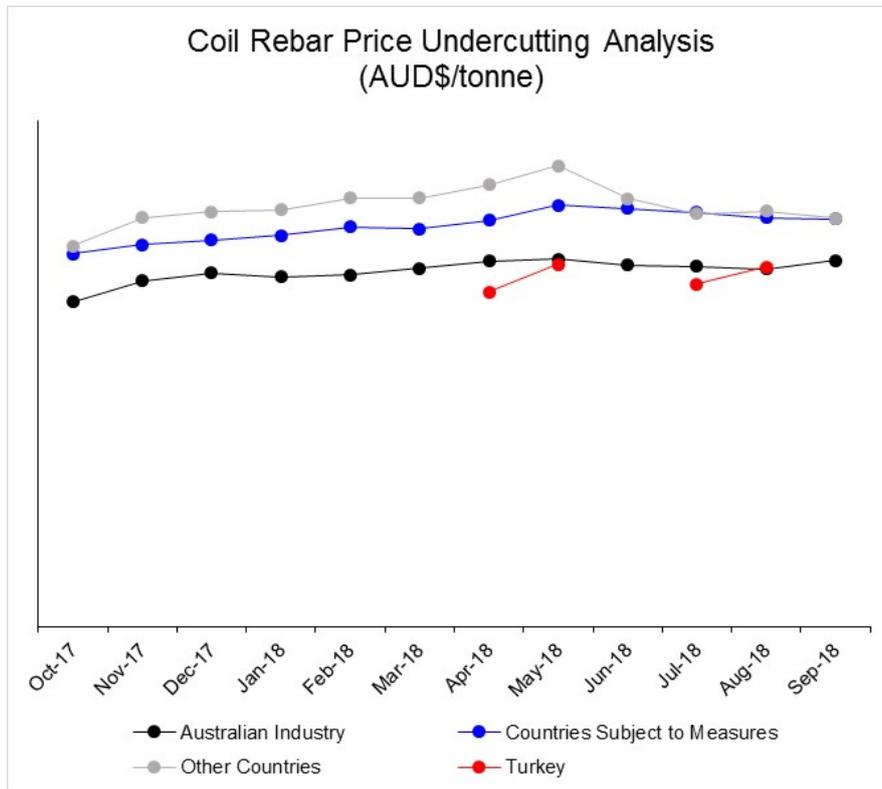


Figure 8 – DBIC price undercutting analysis<sup>27</sup>

The Commission’s price undercutting analysis is available at **Confidential Attachment 6**.

## 6.6 Profit effects

As shown in Figure 5, the Commission observed that the Australian industry’s performance returned to a profitable position in the investigation period, however this profit was marginal.

The Commission also found that, following measures imposed in relation to Investigation No. 418:

- the volume of rebar exported to Australia from Turkey increased substantially in the investigation period when compared to prior years;
- in the investigation period the Australian industry was unable to maintain previously held levels of Australian market share;
- the selling price of Turkish imports were the lowest in the Australian market and undercut the prices of rebar from all other suppliers, including the Australian industry; and
- the Australian industry suffered price suppression in the investigation period as a result of Turkish imports.

As discussed in section 6.4 above, the Australian industry’s rebar prices will generally be negotiated at or near the lowest offers in the market, which in this case is rebar imported from Turkey. These lower prices are accepted in order to maintain sales volume, however the outcome of such price reduction means that the Australian industry’s profit is reduced,

<sup>27</sup> Confidential Attachment 6 – Worksheet ‘Price Undercutting Analysis - Table 1’

which causes it to be susceptible to minor increases in cost.

I am satisfied that there appears to be sufficient grounds to conclude that rebar exported from Turkey at dumped prices have undercut the Australian industry's prices, impacted its market share, and have contributed to injury in the form of reduced profit and profitability.

## **6.7 Injury factors other than dumping**

The Commission has not received any submissions relating to injury factors other than dumping.

The Commission is considering whether injury factors other than dumping may have contributed to the economic performance of the Australian industry. Such factors include:

- the effects of increases in the costs of inputs, e.g. billet and energy costs;
- movements in rebar prices globally;
- foreign exchange rates; and
- impact of imports from other countries.

Further analysis of these factors, and other factors that may arise, will be considered in the statement of essential facts.

## **6.8 Cause of injury to the Australian industry – preliminary assessment**

Based on the Commission's preliminary assessment, I consider that:

- the Australian industry experienced reduced market share in the investigation period;
- importers were able to purchase the goods from Turkey at dumped prices, which allowed those importers to be more competitive on price than otherwise would be the case;
- the Australian industry's prices were suppressed due to competition with the goods from Turkey at dumped prices, which in turn has caused injury in the forms of price suppression, reduced profit and reduced profitability;
- in the absence of dumping, it is likely that the Australian industry would be in a better position to achieve pricing at levels necessary to achieve an increased profit and profitability; and
- the injury suffered by the Australian industry is material.

I also note that the Material Injury Direction states that dumping or subsidisation need not be the sole cause of injury to the Australian industry.

As such, I am satisfied, at this point in the investigation, that there appears to be sufficient grounds to support the conclusion that rebar exported from Turkey are at dumped prices and because of that, material injury to the Australian industry has been caused.

**7 OTHER MATTERS CONSIDERED RELEVANT**

In accordance with section 7 of the PAD Direction and for the purposes of subsection 269TD(2)(b), I have considered the desirability of providing relief to an injured Australian industry, as quickly as possible, where warranted.

## 8 UNSUPPRESSED PRICE AND NON-INJURIOUS PRICE

The non-injurious price (NIP) is relevant to subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975*, which requires consideration of the desirability of fixing a lesser amount of duty if sufficient to remove injury to the Australian industry. The Commission also utilises the NIP as an additional test to establish whether there is a causal link between the alleged dumping and material injury.

The Manual specifies that:

The Commission will generally derive the NIP from an unsuppressed selling price (USP). The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports.<sup>28</sup>

The *Dumping and Subsidy Manual* further provides the following hierarchy for determining a USP:

In calculating the USP, the Australian industry's selling prices at a time unaffected by dumping or subsidisation will normally be used. If there are sound reasons for not using this approach, a price may be constructed based on the industry's cost to make and sell, plus a profit.

If either of these methods is not appropriate, the selling prices of undumped and unsubsidised imports in the Australian market will be used.<sup>29</sup>

The Commission will continue to assess data received during the course of the investigation to determine an appropriate USP.

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<sup>28</sup> [Dumping and Subsidy Manual](#), page 137.

<sup>29</sup> Ibid.

## 9 PROVISIONAL MEASURES AND FORM OF DUTY

### 9.1 Form of duty

The forms of duty available under the *Customs Tariff (Anti-Dumping) Regulation 2013* include:

- combination fixed and variable duty method ('combination duty method');
- fixed duty method;
- floor price duty method; and
- *ad valorem* duty method (i.e. a percentage of export price).

These forms of duty all have the same objective of removing the injurious effects of dumping and subsidisation; however, in achieving this objective, certain forms of duty will better suit the particular circumstances of some investigations more so than other forms of duty.

For the purposes of this PAD, I have had regard to the *Guidelines on the Application of Forms of Dumping Duty – November 2013* (the Guidelines)<sup>30</sup> and note that rebar is a product that demonstrates significant price volatility due to its high correlation with global steel prices. The Guidelines specify that the *ad valorem* duty method has an advantage for goods which are subject to significant price variations over time because:

- a) it does not show the same variability in the 'effective rate' of the duty – as export prices fluctuate – that arises under the other methods; and
- b) may require less frequent reviews than other duty methods in this situation.

Therefore, I consider the *ad valorem* duty method appropriate given the volatility of rebar prices over time. The Commission will continue to assess information received during the course of the investigation to determine and propose measures that will effectively remedy the injury that has been caused to the Australian industry, while at the same time not setting a form of measures above the level that is required to prevent further injury from occurring.

The above considerations may become more relevant for the purposes of publishing a dumping duty and / or countervailing duty notice, and therefore I will reassess the most appropriate form of measures, should that form part of my recommendations.

### 9.2 Securities

As outlined in chapters 5 and 6, I am satisfied that there appears to be sufficient grounds to establish that the goods from Turkey caused material injury to the Australian industry during the investigation period. I note that following the investigation period, imports of the goods from Turkey have continued in significant volumes. In addition, participating importers have forward orders from Turkish exporters.

Given the continued volumes of imports from Turkey, I am satisfied that it is necessary to take securities to prevent material injury occurring whilst the investigation continues.

I have determined that securities will be taken as an amount worked out in accordance with the *ad valorem* duty method. Securities will be imposed in relation to the goods

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<sup>30</sup> The [Guidelines](http://www.adcommission.gov.au), available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

exported to Australia from Turkey at the rates specified in Table 2.

Exporter	Dumping security
All exporters	4.0%

**Table 2 – Dumping securities**

### **9.3 Anti-Dumping Commission contact**

Affected parties should contact [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au) on telephone number 13 28 46 or +61 2 6213 6000 (outside Australia) for further information regarding the actual security liability calculation in their circumstance.

Enquiries about this notice may be directed to the case manager via email at [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

15 January 2019