

16 March 2022

The Director
Investigations 3
Anti-Dumping Commission

BY EMAIL: investigations3@adcommission.gov.au

Dear Director,

Dumping Investigation No. 584 concerning Merchant Bar exported from Taiwan

AUSTRALIAN INDUSTRY SUBMISSION CONCERNING APPROACHES FOR ESTABLISHING AN UNSUPPRESSED SELLING PRICE

InfraBuild NSW Pty Ltd (**InfraBuild**), the Australian industry applicant in this matter, makes the following submission concerning the suitable approach for establishing an Unsuppressed Selling Price (**USP**) available to the Commission.

Section 269TACA¹ defines the non-injurious price (**NIP**), in relevant part, as *...the minimum price necessary to prevent the injury...* caused by the dumped goods, the subject of a dumping duty notice. The NIP is generally derived from the Australian industry's USP.

The *Dumping and Subsidy Manual* (December 2021) (**the Manual**) provides that the Commission will normally use the following approaches, in order of preference, subject to the facts of the case, for establishing a USP:

1. The price or market approach of the Australian industry's selling prices in a period unaffected by dumping.
2. The constructed approach, using the Australian industry's CTMS plus a reasonable amount for profit.
3. The selling prices of undumped imports in the Australian market.²

Australian industry's weighted average selling price for a period unaffected by dumping

In REP 554, the Commission noted that as it had *...not previously investigated the goods under consideration. Malaysian exports were prevalent in the Australian market during the investigation*

¹ All legislative references are to provisions of the *Customs Act 1901* unless otherwise specified.

² The Manual, pp. 106-107.

period and prior periods examined – accounting for greater than 80% of the total market volumes. The Commission therefore considers that industry selling prices in the period prior to the investigation period may not be the most suitable basis on which to establish a USP.³

Applied here, similarly InfraBuild submits that:

- the Commission has not previously investigated the goods under consideration, namely, merchant bar;
- Taiwanese exports were prevalent in the Australian market during the investigation period and prior periods examined (injury analysis period), accounting for greater than ■■■ % of the total import market volumes.⁴

Therefore, it is not appropriate for the Commission to establish a USP by reference to the Australian industry’s weighted average selling price for a period unaffected by dumping, because the Commission is unable to be satisfied that those prices were unaffected by dumped imports in prior periods.

Using the Australian industry’s CTMS plus a reasonable amount for profit

The Australian industry considers the constructed approach under the Manual’s hierarchy in establishing the USP as the most suitable. The Australian industry considers that it has experienced, among other factors, injury in the form of lost profits and reduced profitability during the investigation period. The Australian industry has previously experienced higher rates of profitability during the injury analysis period, commencing 1 April 2017. For example, in the June 2019 quarter, InfraBuild achieved a profitability rate of ■■■ %. In terms of an annual weighted average rate of profitability, the Australian industry achieved a profitability rate of ■■■ % for the 12-months ending 31 March 2019.⁵

Selling prices of undumped imports in the Australian market

For similar reasons to those expressed regarding the suitability of the first method, being the Australian industry’s weighted average selling price under the Manual’s hierarchy in establishing the USP, the Australian industry considers that the third method is also unsuitable. During the investigation period (12-months ending 31 March 2021), exports from Taiwan accounted for ■■■ %

³ Report 554 – Concrete Underlay Film – Malaysia (17 December 2021), p. 89.

⁴ appendix A2.

⁵ appendix A6.1.

of all merchant bar imports. With a verified dumping margin of 17.7% for the largest Taiwanese exporter, the Commission is unable to conclude that the selling prices of “undumped” imports in the Australian market have not been suppressed by the dumped Taiwanese export prices.

Conclusion

InfraBuild considers that the USP should be calculated according to the constructed approach, being the sum of:

- **InfraBuild’s CTMS for like goods for the period 1 April 2020 to 31 March 2021; and**
- **a reasonable amount for profit based on InfraBuild’s past verified performance for the period April to June 2019 sourced from its submitted appendix A6.1.**

Please do not hesitate to contact your InfraBuild representative on record with any questions.

FOR AND ON BEHALF OF THE

AUSTRALIAN INDUSTRY APPLICANT