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Director Operations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2600

Expiry review of Steel Reinforcing Bar exported from the Republic of Korea

Dear Director,

This submission is made on behalf of Daehan Steel Co., Ltd. (Daehan) in response to the Anti-Dumping Commission's (the Commission) Statement of Essential Facts Report No. 546 (SEF 546).

Daehan wishes to express its concern with a key element missing from the material injury assessment which undermines the overall analysis and reasoning contained in SEF 546, used to support the Commission's preliminary findings. In particular, Daehan notes that the Commission's analysis contains no examination or assessment of the impact of non-dumped exports from Turkey, and the significant degree of price undercutting by these exports.

The references in SEF 546 to the recently terminated investigation into Turkish exports of steel reinforcing bar (REP 495) is limited merely to an explanation that verification of Infrabuild's data was prevented due to restrictions imposed to control COVID-19 and that onsite verification was undertaken as part of the Turkish investigation. Beyond this, SEF 546 contains no explanation or assessment of the impact of Turkish exports, no comparative analysis of prices, and no examination of the volume and price trends in Turkish rebar exports relative to other export sources such as Korea.

The lack of comparative analysis relating to Turkish exports is particularly evident given the Commission's consistent conclusion in all rebar inquiries that *'rebar is a commodity product, and provided the goods meet the relevant Australian Standard and the grade requirements for the desired end use, there are ways in which suppliers can differentiate their offering beyond price and service.'*¹ In a highly commoditised market where price is the primary factor influencing customer's purchasing decisions, it is imperative and obligatory that the Commission's assessment consider the impact of the cheapest priced and largest volume export source. By overlooking the impact of Turkish exports, the reasoning for the preliminary findings are fundamentally unsound.

¹ SEF 546, page 24.

Impact of Turkish rebar exports

To understand the impact of Turkish exports, the Commission need only review the injury allegations made by Infrabuild in its original application for dumping duties. The key claims are outlined below.

Box 1

1.1 Influence on quarterly sales volume

In the case of the Australian industry's sales volume, the influence of the dumped imports from Turkey commenced in the December 2017 quarter, when the volume of dumped imports increased by 113 per cent, when compared to the previous quarter, and the sales volume of the Australian industry's own production declined by 12 per cent, across the same period. The influence of the dumped imports on the Australian industry's quarterly sales volume is illustrated in **Figure A-9.1.1** (below).

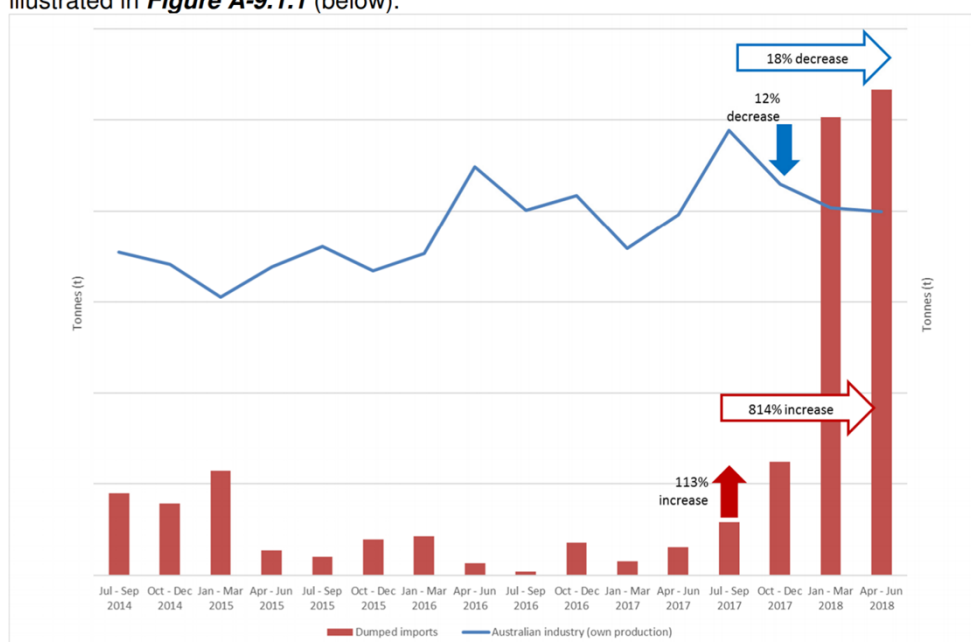


Figure A-9.1.1 Influence of the volume of dumped imports from Turkey on quarterly sales volume of Australian industry sales of own production of total rebar (DBIL + DBIC) (Source: [appendix A2](#))

Box 2

1.2 Influence on quarterly market share

The influence of dumped imports from Turkey on the Australian industry's quarterly market share was felt in the December 2017 quarter and continued for each remaining quarter of the investigation period. **Figure A-9.1.2** (below) illustrates the correlation between the increases in quarterly dumped import volumes and the Australian industry's market share for the like goods.

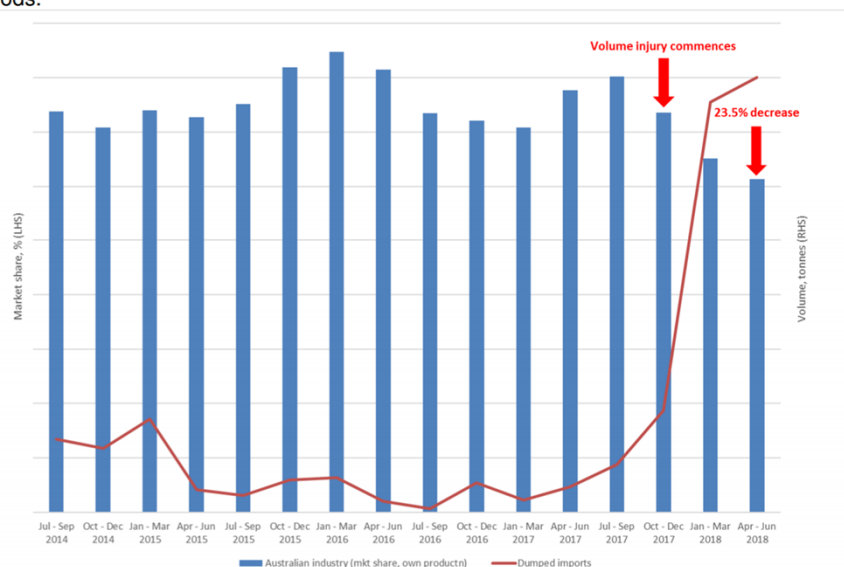


Figure A-9.1.2 Influence of the volume of dumped imports on quarterly market share of Australian industry sales of the like goods (Source: [appendix A2](#))

Box 3

2.1 Price effects

The Australian industry applicant considers that the prices of the dumped imports from Turkey have applied downwards pressure on its prices so that it was unable to raise them sufficiently. This influence is demonstrated in **Figure A-9.2.1.1** (below), which illustrates the strong correlation between the Australian industry's quarterly sales prices for the like goods and the quarterly FOB export prices of the dumped imports from Turkey across the injury analysis period.

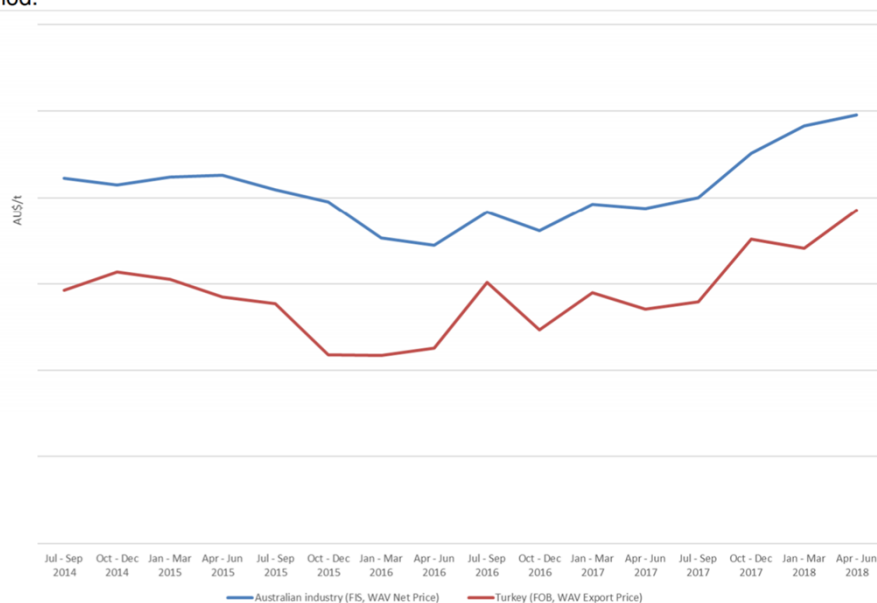


Figure A-9.2.1.1 Influence of the price of imports from Turkey on quarterly net FIS prices of Australian industry sales of own production of the like goods (Source: [appendix A2](#))

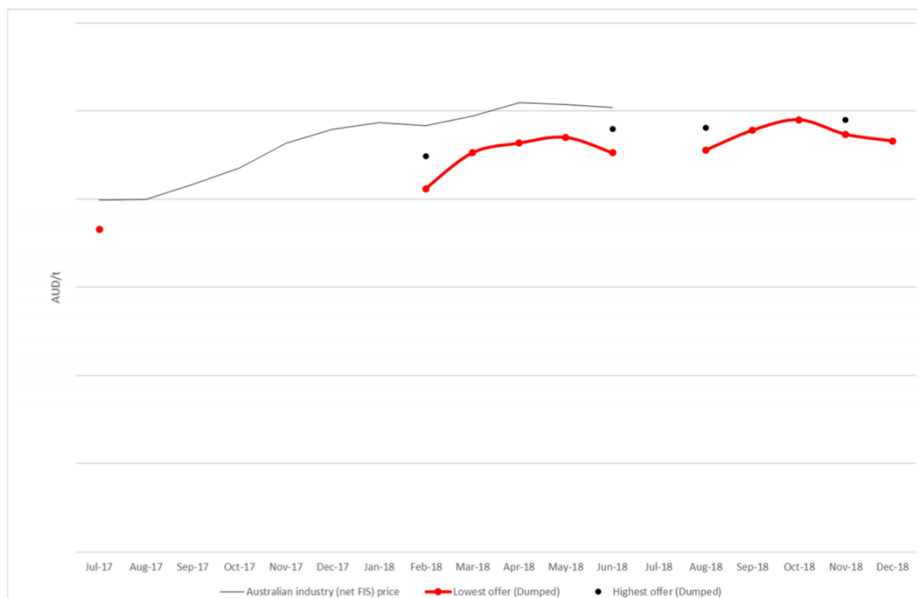
Box 4

Figure A-9.2.1.3 Pricing over investigation period – DBIC (Sources: appendix A6.1 and CONFIDENTIAL ATTACHMENT A-9.2.1)

Figure A-9.2.1.3 (above) indicates that import offers for DBIC from Turkey were lower than the industry applicant's weighted average price consistently across the investigation period (in those periods for which market intelligence of import price offers from Turkey were known to the applicant industry).

Box 5**2.1.1.2 Rebar in coil form (DBIC)**

Figure A-9.2.1.5 (below) show that import price offers from the subject country undercut the applicant industry's prices for DBIC and the lowest price offers from all other sources across the entire investigation period and continue to undercut all prices (in all but two months) of the Australian market for the remainder of the 2018 calendar year (where market intelligence exists for price offers for goods from Turkey).

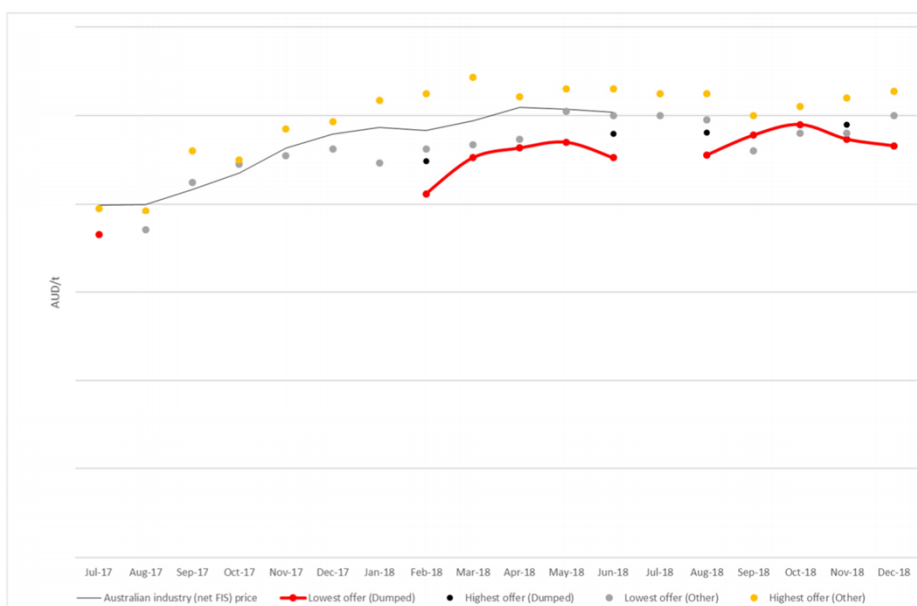


Figure A-9.2.1.5 Pricing over investigation period and 2018 calendar year – DBIC (Sources: appendix A6.1 and CONFIDENTIAL ATTACHMENT A-9.2.1)

Whilst Infrabuild incorrectly estimated that Turkish rebar exports were dumped, there appears to be sufficient evidence in the Commission's Infrabuild verification report which demonstrates that material injury suffered by the industry was caused by other factors, being the non-dumped rebar exports from Turkey.

The relevance of non-dumped Turkish exports to the likely recurrence of material injury caused by exports from Korea, can be seen in Infrabuild's charts at boxes 4 and 5 above. These charts show the price relativities between Infrabuild's prices, Turkish import prices and import prices from other sources. As Daehan only exported debar-in-coil (DBIC) during the review period, these price comparisons are directly relevant, and confirms that Turkish DBIC prices significantly undercut prices offered by Infrabuild and Daehan.

Undercutting is further supported by the Commission's own Trade Remedy Index data, with the data confirming that Turkish prices substantially undercut Korean equivalent prices.



Finally, the impact of non-dumped Turkish prices undercutting Korean equivalent prices is evident from the volume index chart above, where Turkish export volumes far exceed corresponding volumes from Korea. This is also supported by [REDACTED]

[REDACTED] [purchasing decision]. Whilst Daehan is unaware of the alternative sources, the Commission would have access to import data to confirm the shift in import volume away from Korea.

Daehan therefore contends that relevant information available to the Commission supports a view that non-dumped Turkish rebar exports will continue to cause material injury to Infrabuild, and at prices that continue to undercut Korean equivalent prices. Given the highly commoditised nature of the rebar market, where price is the primary factor driving customer's purchasing decisions, it is reasonable to conclude the exports from Korea would not likely lead to a recurrence of material injury caused by Korean exports. That is, lower rebar prices from Turkey would prevent Daehan from achieving substantial sales orders, which is already occurring.

In terms of the likelihood test required to be considered, subsection 269ZHF(2) of the *Customs Act 1901* ("the Act") explicitly requires that the Commissioner:

must not recommend that the Minister take steps to secure the continuation of the antidumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

In *US Drums*², the WTO Dispute Panel found that the continued imposition of measures must be based on 'positive evidence'. The Panel stated:

Accordingly, we must assess the essential character of the necessity involved in cases of continued imposition of an anti-dumping duty. We note that the necessity of the measure is a function of certain objective conditions being in place, i.e. whether circumstances require continued imposition of the anti-dumping duty. That being so, such continued imposition must, in our view, be essentially dependent on, and therefore assignable to, a foundation of positive evidence that circumstances demand it. In other words, the need for the continued imposition of the duty must be demonstrable on the basis of the evidence adduced.

Further, the Appellate Body said of Article 11 in *Corrosion Resistant Carbon Steel*³:

In view of the use of the word "likely" in Article 11.3, an affirmative likelihood determination may be made only if the evidence demonstrates that dumping would be probable if the duty were terminated—and not simply if the evidence suggests that such a result might be possible or plausible.

Therefore, the Act requires that the Commissioner to recommend expiry of the measures, unless there is positive evidence to demonstrate that the recurrence of dumping in the future is likely or probable (ie. implying a greater degree of certainty that the event will occur than a finding that the event is not "not likely")

It is clear that the analysis contained in SEF 546 is deficient as it does not properly examine and analyse the impact of non-dumped Turkish imports, which have undercut both local and import prices, including those exported by Daehan. A comprehensive analysis would confirm that exports from Korea were not likely to lead to a recurrence of material injury, in the absence of measures.

Yours sincerely

John Bracic

² *US Drums* – WT/DS99/R; para 6.42, page 139.

³ *US – Sunset Review of Anti-Dumping Duties on Corrosion Resistant Carbon Steel Flat Products from Japan* – WT/DS244/AB/R; para 111, pages 39-40.