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22 September 2020

**The Director
Investigations 2
Anti-Dumping Commission
Level 6, 215 Spring Street
Melbourne
Victoria 3000**

By email

Dear Director

Best Bar Pty Ltd – steel reinforcing bar from Singapore Comments on Continuation 546 Statement of Essential Facts

We write on behalf of Best Bar Pty Ltd and its associated entities Best Bar (NSW) Pty Ltd and Best Bar (VIC) Pty Ltd (collectively “Best Bar”) for the purpose of the continuation inquiry presently being undertaken by the Anti-Dumping Commission (“the Commission”) concerning steel reinforcing bar from Korea, Singapore, Spain and Taiwan (“Continuation 546”).

Best Bar welcomes and agrees with the proposed recommendations of the Commission as set out in the Statement of Essential Facts (“SEF”) published in Continuation 546.¹ Best Bar agrees that there is no basis to continue the measures relating to exports of steel reinforcing bar from Singapore.

As a purchaser of the subject goods from the applicant, InfraBuild (Newcastle) Pty Ltd, and from its related entities (collectively “InfraBuild” or “the Applicant”), and also from subject exporter NatSteel Holdings Pte Ltd (“NatSteel”), Best Bar considers it is well positioned to provide the Commission with additional perspective about the dynamics of the Australian market.

The purpose of this submission is to provide Best Bar’s commentary on relevant matters to assist the Commission in finalising its proposed recommendations.

A Conditions of competition in the Australian market

A number of factors have contributed to the proposed decision that the measures be discontinued. These include the current and previous findings of no or negligible dumping on the part of NatSteel, the ongoing successful relationship between Best Bar and NatSteel that has continued notwithstanding the impact of the measures on Best Bar’s exports, and the fact that InfraBuild’s prices undercut those of NatSteel to a *material degree*.

¹ EPR 546, Doc 24 – Statement of Essential Facts.

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Both Best Bar and NatSteel have cooperated fully with the Commission over the years, and have complied fully with the spirit and the intent of the anti-dumping measures. There is no basis to continue the measures against NatSteel. Neither dumping nor material injury are likely to recur if the measures are allowed to expire at the end of the five year period. Best Bar and NatSteel have an exemplary understanding of the anti-dumping system. Their commercial behaviour respects that system, the procedures involved, and its objectives.

Best Bar is compelled to add some further context regarding its place in the Australian market. The Australian steel reinforcing bar market is multilayered, in large part because of the complex related party hierarchy adopted by the Applicant and its related parties. To an extent, the Commission has identified this complexity, explaining in the SEF:

The Australian industry sells rebar to related and independent reinforcing processors and steel service centres. Product is despatched to customers from inventory which is held at the Australian manufacturer's mills. Once sold, the products are transported via road, rail or sea freight to the customer.

Exporters essentially utilise the same channels to market. The channels to market are detailed in Figure 1.² [underlining supplied]

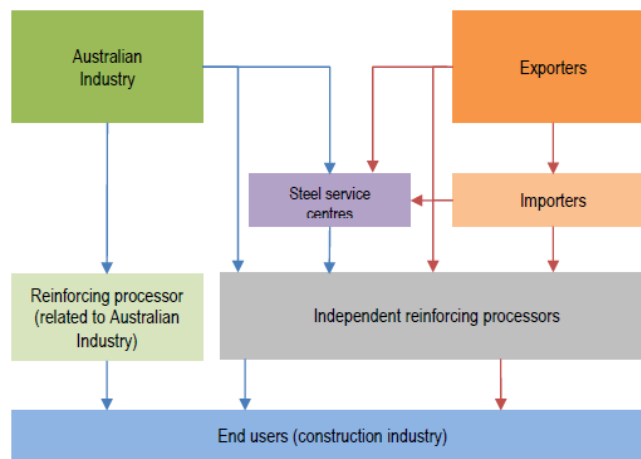


Figure 1: Channels to market

In conducting its analysis the SEF has focused on prices to Australian customers “at what the Commission considered to be the processor/fabricator level and on similar delivery terms”.³ As shown by the diagram, analysis at this level is necessary as it is Applicant’s related party (and not the Applicant) which sells to end users.

Best Bar’s purchases of steel reinforcing bar – whether imported or produced by the Applicant - have been at the “independent reinforcing processors” level. In its pricing comparison the Commission has stated:

The Commission compared the Australian industry’s selling prices to Best Bar during the inquiry period at ex-works (EXW) delivery terms to the cost incurred by Best Bar to import the goods

² SEF at page 25.

³ SEF at page 53.

from Singapore (comprising the exporter's FOB export price and other post exportation costs, excluding delivery costs but including dumping duty). In its analysis, the Commission relied on verified exporter, importer and Australian industry data.

Based on this analysis the Commission did not find that exports from Singapore undercut the Australian industry's selling prices during the inquiry period. The Commission found that the costs incurred by the importer to import the goods from Singapore was greater than the Australian industry's selling prices, with the percentage variance found to be material.⁴

This unequivocally confirms that InfraBuild's selling prices to Best Bar are lower than NatSteel's selling prices to Best Bar. **[CONFIDENTIAL TEXT DELETED – pricing information]**. It underlines the point that price is not the only consideration taken into account by Best Bar when it deals with its suppliers.

Although Best Bar purchases from the Applicant, it is also critical to understand that it must compete with the Applicant's related parties (which are supplied by the Applicant) in its sales to end users. It is Best Bar's understanding that the Applicant has a two-tiered pricing system, with the price charged by the Applicant to its related parties being less – presumably *much less* given the "material percentage variance" referred to by the Commission.⁵ Best Bar made submissions regarding this during the original investigation, and notes that it is open to the Commission to check this via an analysis of the information it has gathered throughout this inquiry.

The reality is that one of Best Bar's main suppliers happens to be its main competitor in the downstream market and that this competitor gets cheaper rebar for fabrication than the market would otherwise dictate. Competition does not take place on a level playing field, a difficulty that has always challenged Best Bar's business. In this environment, Best Bar has achieved commercial success by going "above and beyond" in terms of the quality of its fabricated products and the services it offers to its customers.

Best Bar works closely with its customers to deliver their projects on time. By using industry leading processes and technology, Best Bar is able to deliver significant value to its customers far beyond the steel it sells. It is, however, important for Best Bar to have access to steel reinforcing bar from multiple sources, so it does not have to rely solely on its major competitor. This has been the case with the measures in place, and will continue to be so once they are revoked. The distinctions between Best Bar's offering to the Australian market and that of other sellers of fabricated products, and Best Bar's knowledge of the dumping laws and procedures, make it unlikely to expect that Best Bar would put inordinate price pressure on its Singaporean supplier, and even more unlikely that injury would recur if the measures were revoked.

B Injury considerations must include non-subject imports

Although the Commission's preliminary finding proposes to recommend that the Minister not secure the continuation of the dumping duty notice as it applies to NatSteel, Best Bar does nonetheless wish to comment on a significant issue which does not appear to have been evaluated to the extent it should be.

⁴ SEF at page 54.

⁵ **[CONFIDENTIAL TEX DELETED – comment about sales practices and prices in the Australian market]**

The Commission's analysis about the likelihood that injury will recur is relatively limited to the effect of imports from subject countries only and does not assess the effect of non-subject imports. The inclusion of non-subject imports in the analysis is of importance with respect to Turkish imports in particular, which have an increasing influence on the Australian market. The Applicant itself has repeatedly raised the issue of Turkish imports and has complained about their effect – both in its application⁶ and in separate applications for measures against imports from Turkey, which have all been terminated.⁷ As alleged in its application:

The new dominant source to have emerged from the 12-month period since the imposition of measures is Turkey (refer 2018 and 2019). Exporters from Turkey are not entirely newcomers to the Australian market, with a number of mills having obtained ACRS certification prior to the imposition of measures. Notwithstanding this, their historic presence has been limited until 2018.⁸

The non-subject imports should be considered of relevance because they go to the issues of market share and to the price analysis conducted. As an example, the SEF comments:

While InfraBuild has increased its sales volumes, it has experienced declining market share, until the inquiry period of 2019. During the same period, the market share of exports subject to measures increased until 2019 when it declined sharply.⁹

What is left unsaid in this analysis is the source of the remainder of the 2019 market share. From the Applicant's earlier comments, it would appear in large part to be Turkish imports. The impact of Turkish rebar on the Applicant's prices is evidently significant and ongoing. The prices of these imports are clearly a significant factor in a forward-looking consideration of the likelihood of future injury, of a material nature, caused by dumping, from the currently subject countries, and to the question of what is truly a "non-injurious" price level.

Best Bar supports the preliminary findings of the SEF, and the proposed recommendation not to secure continuation of the measures against NatSteel. It is with that in mind, that we offer the above comments, in further support of that proposed recommendation.

Yours sincerely



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Senior Associate

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⁶ EPR 546, Doc 01 at page 82.

⁷ Please refer to Investigation 495.

⁸ Application page 82

⁹ SEF page 57.